

Transcript of the Testimony of **Flora, Mark**

Date: February 19, 2020

Volume:

Case: Mark Flora v. Transocean Drilling (USA), Inc., et al

O'Neal Probst Wells

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In the United States District Court
for the Southern District of Texas
Houston Division

Mark Flora,
Plaintiff,

v. Civil Action No: 4:19-cv-02328
Transocean Drilling (USA), Inc.,
et al,

Defendants.

ORAL AND VIDEOTAPED DEPOSITION OF

MARK FLORA

FEBRUARY 19, 2020

VOLUME 1

ORAL AND VIDEOTAPED DEPOSITION OF MARK
FLORA produced as a witness at the instance of the
Defendant and duly sworn, was taken in the above-styled
and numbered cause on February 19, 2020, from 10:19 a.m.
to 2:30 p.m., before Sandi LoCascio, CSR, RPR in and for
the State of Texas, by machine shorthand method, at the
offices of Morrow & Sheppard, LLP, 3701 Kirby Drive,
Suite 1000, Houston, Texas 77098, in accordance with the
Federal Rules of Civil Procedure and any stipulations
hereinafter set forth.

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[1] (Pages 1 to 4)

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1 VIDEOGRAPHER: We're on the record at
2 10:17 a.m. This is February 19, 2020.

3 The court reporter will be swearing in the
4 witness and beginning this deposition.

5 MARK FLORA,
6 having been first duly sworn, testified as follows:

7 E X A M I N A T I O N

8 BY MR. MECHE:

9 Q Good morning, Mr. Flora. How are you?

10 A Good morning. I'm doing okay. How about
11 yourself?

12 Q I'm doing fine, sir. Thank you for being here
13 today.

14 A Thank you.

15 Q Can you give us your full, complete name for the
16 record, sir?

17 A Yes. Mark Alan Flora.

18 Q And what is your current phone number?

19 A 832-767-7527.

20 Q Is that a cell phone or a home phone?

21 A Cell phone.

22 Q Do you have a home phone?

23 A No.

24 Q Is that the same cell phone number that you had
25 on the day of the incident that we're here to talk about?

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1 being recorded in a booklet that you will have the option
2 to read and sign, if you want to -- you can discuss that
3 with your lawyer when we're done. It's obviously being
4 videotaped as well.

5 During the course of the deposition, sir,
6 if I ask you anything, or any lawyer here asks you
7 something that you don't understand 100 percent I need your
8 agreement that you're not going to answer the question,
9 you're going to ask that it be reasked or rephrased until
10 you are on the same page with the questioner before
11 answering. Okay?

12 A Okay.

13 Q So at the end of today's process, we know that
14 you understood every question 100 percent before you
15 answered.

16 A Okay.

17 Q Can we have that agreement?

18 A Yes.

19 Q Okay. If you need to take a break today, sir,
20 for any reason at any time, just say so. This is not an
21 endurance contest.

22 A Okay.

23 Q We'll probably be here for a few hours. We're on
24 your schedule, so let us know if you need to take a break.

25 A Okay. Thank you very much.

[Page 6]

1 A No.

2 Q Do you recall the phone number that you had --

3 A I do not.

4 Q -- on May 25, 2017?

5 A No, not from three years ago.

6 Q Who is your cell carrier currently?

7 A AT&T.

8 Q Okay. Do you know whether you had AT&T back at
9 the time of the incident or not?

10 A I don't think so.

11 Q All right. Mr. Flora, you understand that we're
12 here to take your deposition concerning your lawsuit,
13 describing an incident that happened on May 25th, 2017? Do
14 you understand that?

15 A Yes.

16 Q Have you ever given a deposition before?

17 A Not to my recollection, no.

18 Q Okay. All right. The court requires us to
19 follow -- the lawyers and the witnesses follow certain
20 rules, and I want to go over a few of them with you on the
21 record. I recognize that you may have had an opportunity
22 to talk to your lawyer before we started, but I want to
23 make sure that this is all on the record. Okay?

24 A Okay.

25 Q Mr. Flora, everything that we say here today is

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1 Q During the course of the deposition, I am
2 probably going to ask you questions that you're going to
3 think, you know, that lawyer knows this. He's got has a
4 stack of paper, he knows my Social Security number, those
5 sorts of things.

6 You understand that we have to ask some of
7 those questions that may be obvious from the paperwork we
8 have, because if it's not on the record today, it didn't
9 happen.

10 A I understand.

11 Q You understand that you are under oath here
12 today, sworn to tell not only the truth, but the whole
13 truth regarding anything that gets asked today?

14 A Yes.

15 Q Okay. During the course of the deposition the
16 lawyers may object to a question I ask or someone else
17 asks; they may object to the way you answered your
18 question. Understand, sir, that the court requires the
19 lawyers to put certain objections on the record to preserve
20 a legal defect that they think the questioner or the answer
21 might have. You're still allowed to answer the question,
22 unless your lawyer instructs you not to. Okay?

23 A Okay.

24 Q All right. Mr. Flora, in getting ready for
25 today's deposition have you reviewed any documents?

[2] (Pages 5 to 8)

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1 A Yes.
 2 Q Okay. Tell us what documents you reviewed.
 3 A I reviewed the application for DOT physical.
 4 Q Okay. And what else?
 5 A That's it.
 6 Q That's the only document you reviewed?
 7 A Yes.
 8 Q Okay. When did you -- did you review that this
 9 morning?
 10 A Yes.
 11 Q Okay. All right. With the application for DOT
 12 physical, when was that DOT physical done?
 13 A I do one every year.
 14 Q Okay. This is the Coast Guard?
 15 A Coast Guard, and also for commercial driver's
 16 license.
 17 Q Okay. The application for DOT physical,
 18 obviously relates to your CDL license, correct?
 19 A Yes -- well, there's -- they're separate, but
 20 they're very similar.
 21 Q Okay.
 22 A I have to do one every two years for each
 23 profession, so they're staggered.
 24 Q The application for the DOT physical, that
 25 document that you reviewed today, when was that physical

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1 MR. SHEPPARD: So it wasn't what he
 2 actually completed.
 3 MR. MECHE: I understand.
 4 Q (BY MR. MECHE:) The application for DOT physical
 5 that you completed roughly a month and a half ago for your
 6 Coast Guard license, do you have a copy at home?
 7 A No.
 8 Q Who would you have provided that information with
 9 -- so you take the physical?
 10 A Uh-huh.
 11 Q You fill out the application.
 12 A Correct.
 13 Q I'm assuming you get a medical record or
 14 something back?
 15 A Yes. They -- after it's approved by the Coast
 16 Guard, if it's approved, they'll send you a card to put on
 17 your license, or in your license, stating that you passed
 18 the physical.
 19 Q Okay. Did you pass the physical?
 20 A Yes, I did.
 21 Q Did you have any restrictions on the physical
 22 that were transmitted to the Coast Guard?
 23 A None.
 24 Q Do you have any paperwork at home that would
 25 identify the specific clinic where that was done?

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1 done?
 2 A The last one was done, oh, about a month and a
 3 half ago.
 4 Q Okay. Where was that physical done?
 5 A Here in Houston.
 6 Q What clinic and doctor?
 7 A I believe the clinic is Concerta.
 8 Q Okay.
 9 A On Gulf Freeway by Monroe, and I don't recall the
 10 doctor's name.
 11 Q And in conjunction with what employer or
 12 employment was that DOT physical done?
 13 A It's for my Coast Guard license, my captain's
 14 license.
 15 Q Okay. So the one you went over this morning did
 16 have to do with the Coast Guard license?
 17 A Yes.
 18 Q Okay.
 19 MR. SHEPPARD: If you want me to clarify,
 20 it wasn't the actual application. It was like a form.
 21 MR. MECHE: Okay. Has that be produced?
 22 MR. SHEPPARD: I don't have the
 23 application, we looked at a form online.
 24 MR. MECHE: Okay. You looked at something
 25 online. Okay. All right.

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1 A I might have a receipt from paying for it.
 2 Q Okay. And roughly, what does one of those cost
 3 these days?
 4 A Oh. About 150 bucks, in that ballpark.
 5 Q Okay. Do you recall how you paid for it -- cash,
 6 credit card, check?
 7 A I don't recall.
 8 Q Were you required to provide the results of that
 9 to your current employer?
 10 A The card itself.
 11 Q Just the card itself?
 12 A Yes.
 13 Q Not the results?
 14 A Yes, that's correct.
 15 Q All right. And we'll get -- we'll talk some more
 16 about your -- about the medical aspects as we move along.
 17 What is the last four of your Social
 18 Security?
 19 A 8088.
 20 Q Do you have a Texas driver's license?
 21 A I do.
 22 Q Okay. Do you have a copy of it with you today?
 23 A I don't have a copy of it, I have the actual
 24 license.
 25 Q You have the actual license today?

[3] (Pages 9 to 12)

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1 A Yes. Yes, I do.
 2 Q Okay. What I would like to do at our first
 3 break, I would like to mark that as Exhibit Number 1.
 4 MR. MECHE: Daniel, if you'll agree with
 5 that.
 6 MR. SHEPPARD: All right.
 7 Q (BY MR. MECHE:) Is it current right now, your
 8 driver's license?
 9 A Yes.
 10 Q Has your Texas driver's license ever been
 11 suspended or revoked?
 12 A No.
 13 Q Have you ever had a driver's license of any other
 14 state, other than Texas?
 15 A I don't think so.
 16 Q Other than the name you've already put on the
 17 record, do you have any aliases or nicknames?
 18 A No.
 19 Q You know, most people offshore have a nickname,
 20 right?
 21 A Yeah, they do.
 22 Q All right.
 23 A I'm one of the few without one.
 24 Q Okay. Good deal.
 25 A Yeah.

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1 Q Are you on any medication today, Mr. Flora, that
 2 might affect your ability to understand questions and/or
 3 sit here for a deposition?
 4 A No.
 5 Q When is the last time that you had a prescription
 6 for any medication that you believe has something to do
 7 with the injuries you allege in this lawsuit?
 8 A Prescriptions for the injury for the lawsuit?
 9 Q Yes, sir. How long ago did you have an active
 10 prescription? A months ago? A year ago? Two years ago?
 11 A I don't recall ever having one.
 12 Q Okay. All right. Based on your best knowledge
 13 and memory, you don't remember ever having an actual
 14 prescription for anything having to do with the injuries
 15 that are alleged in the lawsuit?
 16 A That's correct.
 17 MR. SHEPPARD: Objection, form; asked and
 18 answered.
 19 Q (BY MR. MECHE:) What part of Houston do you live
 20 in, sir?
 21 A The south side.
 22 Q How long was your drive here this morning?
 23 A About 45 minutes, traffic.
 24 Q Do you have a Facebook account?
 25 A I do.

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1 Q What's the name on your Facebook? Is it
 2 Mark Flora?
 3 A Yeah.
 4 Q Do you have a Twitter account?
 5 A No.
 6 Q Instagram?
 7 A No.
 8 Q If you had to give the court and the jury an
 9 estimation, how often you get on Facebook?
 10 A Well, it depends on when I have service. I work
 11 offshore a lot. I was out of the country nine months last
 12 year, and the majority of the time I didn't have it. When
 13 I'm up home, I like to play Candy Crush and communicate
 14 with friends every now and then.
 15 Q Okay. When you do that, Mr. Flora, do you do it
 16 on a phone, a cell phone, a smart phone, or do you do it on
 17 a laptop or desktop?
 18 A Both. Both.
 19 Q Okay. You have a desktop at home?
 20 A Oh. A laptop.
 21 Q And who is the internet service provider at home?
 22 A AT&T.
 23 Q All right. So you talked earlier, you have a
 24 Merchant Marine card, right?
 25 A Yes.

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1 Q Okay. Other than your driver's license and your
 2 Merchant Marine card, any other kind of licenses that you
 3 normally carry -- a hunting license, fishing license, that
 4 sort of thing?
 5 A No, sir.
 6 Q With respect to the incident that we're here to
 7 talk about -- and you know when I say "the incident," I
 8 mean May 25th of 2017, right?
 9 A Is it the 25th or 27th?
 10 Q I -- in looking at the incident report that has
 11 been exchanged in this case, and, I believe, a handwritten
 12 statement of yours, the date that's on those documents, and
 13 we'll go over them, is May 25th of 2017.
 14 A Okay.
 15 Q Okay. So when I say "the incident" today, we're
 16 on the same page, right?
 17 A Yes, sir.
 18 Q With respect to the incident, and any time you
 19 were on a Gulf Logistics vessel thereafter, did you take
 20 any photographs of anything with your phone?
 21 A Not that I recall.
 22 Q Okay. Do you have any photographs currently,
 23 either on your phone or on your computer, regarding any
 24 Gulf Logistics vessels?
 25 A No.

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1 Q At the time of the incident that we're here to
 2 talk about, and any time after on that hitch, did you
 3 exchange text messages with anybody?
 4 A I -- I -- probably so, but I don't recall.
 5 Q Okay. Did you keep those?
 6 A No.
 7 Q Okay. what about -- do you remember the location
 8 where this incident occurred?
 9 A Yeah, approximately. South of the Mississippi
 10 around 60 miles, I believe, to the southwest.
 11 Q I've seen some notations in the file, Green
 12 Canyon 390. Does that ring a bell?
 13 A It does.
 14 Q Okay. If I'm at Green Canyon 390 on a Gulf
 15 Logistics vessel, does text messaging work?
 16 A I don't recall.
 17 Q Okay.
 18 A Yeah.
 19 Q How about emailing? I mean, if you're out there
 20 and you have your smart phone and you have reception, are
 21 you able to email if you want to?
 22 A If you have service, yes.
 23 Q Okay. And is that something periodic you have in
 24 that area?
 25 A Sporadic, and I don't recall that specific area.

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1 Q Okay.
 2 A It changes daily offshore.
 3 Q Understood.
 4 A Yeah.
 5 Q And so as you sit here today, you're unaware of
 6 any text messages, photographs, or emails that you still
 7 have regarding the incident that might have been
 8 transmitted or taken at that time?
 9 A Yes.
 10 Q Is that correct?
 11 A All right. Can you say that again, please?
 12 Q You're not aware of any --
 13 A No, no, I'm not.
 14 Q All right. Are you married, sir?
 15 A No.
 16 Q Have you ever been married?
 17 A Divorced.
 18 Q Okay. And what was your former wife's name?
 19 A Nanette Roberts. Nanette Roberts.
 20 Q Can you give us the approximate year you were
 21 married?
 22 A Oh, goodness. I was 20 years old. It was common
 23 law. We lived together for about a year. And I was 20.
 24 Q How old a man are you now?
 25 A 50.

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1 Q What's your date of birth?
 2 A 8-28-69.
 3 Q I'm 8-28-70 vintage.
 4 A Oh, is that right?
 5 Q Same day, different year.
 6 MR. SHEPPARD: 8-28, what year?
 7 THE DEPONENT: '69.
 8 Q (CONTINUED, BY MR. MECHE:) Roughly, what year
 9 did you divorce Ms. Roberts -- or you said it was not an
 10 actual legal marriage?
 11 A Well, it was common law, but there is a child
 12 involved.
 13 Q Okay.
 14 A And I was divorced. I didn't even know I was
 15 married.
 16 Q Surprise?
 17 A Yeah.
 18 Q Do you still keep in contact with Ms. Roberts?
 19 A Very seldom.
 20 Q Do you know where she lives?
 21 A I think she's in Kingwood. Kingwood, Texas.
 22 Q Okay. Did you and Ms. Roberts have any children
 23 together?
 24 A We had a child.
 25 Q Okay. And what's the child's name and age?

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1 A Adam Zachary Flora, and he's 29.
 2 Q And where does Adam live?
 3 A Austin, Texas.
 4 Q And what does he do?
 5 A I'm not sure.
 6 Q Okay. Do you communicate with Adam?
 7 A Unfortunately, no.
 8 Q Understood.
 9 Any other marriages, other than Nanette
 10 Roberts?
 11 A No.
 12 Q Do you have any other biological children, other
 13 than Adam?
 14 A No.
 15 Q Have you ever been under a court order for child
 16 support?
 17 A Yes.
 18 Q Okay. Is that court order still pending?
 19 A No.
 20 Q Okay. Did you have any arrearages during that
 21 period of time that you had a court order for child
 22 support?
 23 A Yes.
 24 Q Have those been cleared?
 25 A Yes.

[5] (Pages 17 to 20)

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1 Q And in what county in Texas was the custody
2 and/or child support adjudicated?
3 A Harris.
4 Q Where do you currently reside, sir?
5 A 4162 Erie Street, Houston, Texas.
6 Q Is that a home that you own or rent?
7 A Own. Own.
8 Q It's a home?
9 A Yes.
10 Q All right. And how long have you lived there?
11 A About 20 years.
12 Q Where did you live before the Erie Street
13 address?
14 A In the Heights.
15 Q Okay. Was that at a parent's house, or just a
16 place you were renting or...
17 A A fiancée and myself, we rented.
18 Q Do you recall the street address of that place in
19 the Heights?
20 A I do not.
21 Q The home that you currently own, is it one story
22 or two?
23 A One.
24 Q Is there anyone who lives there with you?
25 A I have a guest house, and I rent that out.

[Page 22]

1 Q Okay. You have a renter?
2 A Yes.
3 Q Okay. And did you have a renter at the time of
4 the incident that we're here to talk about?
5 A Probably.
6 Q Have you ever been a resident of any other state
7 in the United States for more than 90 days, other than
8 Texas?
9 A Can you repeat that, please?
10 Q Have you lived anywhere else in this country
11 other than Texas for more than 90 days?
12 A Well, I work out of the country frequently. I
13 was in Cartagena for over 90 days last year.
14 Q I'm talking about living somewhere, like you
15 might have lived in Louisiana?
16 A As a -- as a resident?
17 Q Yes, sir, a resident.
18 A No, sir.
19 Q What vehicles do you currently own, sir?
20 A Too many. 2010 Dodge diesel dually;
21 '98 Astrovan; '95 Virago motorcycle; motor home, I think
22 it's a '92; catamaran sailboat, 18 foot; and about nine
23 bicycles.
24 Q All right. I won't ask you --
25 MR. LEMOINE: That's quite a collection.

[Page 23]

1 Q (CONTINUED, BY MR. MECHE:) Which do you like?
2 A Well, so far I like the truck, and I miss the
3 motorcycle, it's not running now.
4 Q Oh. The Dodge dually is the weapon of choice of
5 the vehicles?
6 A Yes, it is. I bought it as a tool for work, and
7 now I'm work offshore more, so now I'm stuck with a 1 ton
8 diesel dually getting groceries.
9 Q Okay. I understand.
10 A I want to sell it.
11 Q The diesel dually, you said it was work -- my
12 understanding is that there was a period of time after this
13 incident that you were doing clean-up work for Hurricane
14 Harvey. Is that --
15 A That's --
16 Q -- what the truck was for?
17 A No.
18 Q Okay.
19 A No. Hotshot. I have class A CDL and a 44-foot
20 gooseneck trailer and I would work with hotshot companies,
21 and they would find work and I'd drive all over the
22 country, taking oilfield supplies, all over. Ike --
23 whatever.
24 Q Okay. What years did you do hotshot work?
25 A The last two.

[Page 24]

1 Q From where we sit today, the last two years?
2 A Yes.
3 Q Okay. All right. When you did hotshot work,
4 were you basically your own boss?
5 A Yes.
6 Q Did you have a company name, or it was just
7 Mark Flora, you did it out of your house so to speak?
8 A Out of my house.
9 Q Okay.
10 A Subcontract to another company.
11 Q What was the name of that other company?
12 A Gilbreath.
13 Q Ah, Gilbreath. Okay.
14 A Gilbreath.
15 Q All right. We'll talk about that -- we have some
16 information that's been provided regarding Gilbreath.
17 A Okay.
18 Q When you were doing hotshot, did you say you did
19 it for about -- was it for two years or just in the last
20 two years?
21 A It was within that time period. One time I did
22 it for three months in a row. And then, went offshore for
23 a few months and came back, worked a little bit, went back
24 offshore. But mostly, I was working offshore.
25 Q Okay. So when not working onshore, you were on

[6] (Pages 21 to 24)

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1 the beach for a while, and it was something you could do to
2 earn extra money?

3 A Yes.

4 Q Do you still do hotshot work today when you have
5 time?

6 A I haven't this year.

7 Q Okay.

8 A But we'll see.

9 Q Yeah. How about in 2019? Hotshot work in 2019?

10 A Some.

11 Q Okay. Now, when you file income tax runs, do you
12 -- do you file your returns with respect to the income you
13 made on hotshot -- you file that with your normal return?

14 A Yeah.

15 Q Okay.

16 A Yeah.

17 Q Where did you go to high school, sir?

18 A I went to several. Let's see. The last one, I
19 believe, was Alvin High School, Alvin, Texas.

20 Q Did you graduate, or maybe you can tell us the
21 highest grade you achieved there?

22 A Ninth grade.

23 Q Ninth grade?

24 A Yes, sir.

25 Q Okay. Did you earn a G.E.D. thereafter?

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1 Q Okay. Where is that located?

2 A It was in Waco. I don't know if it still is.

3 Q Okay. Were you living in Waco at the time?

4 A Yes.

5 Q Okay. So this is before you lived at the Erie
6 Street address?

7 A Yes. I was 17, I believe.

8 Q All right. What course of instruction did you
9 seek in that TS --

10 A Culinary arts.

11 Q Did you complete that?

12 A Did not.

13 Q Okay. A&M Galveston, what you did you do there?

14 A Classes for my captain's license, water survival,
15 I think, was over there.

16 Q Describe for the court and jury what specific
17 captain's license -- licenses you have today?

18 A I have a 1600-ton oceans master with zero
19 restrictions; a towing master endorsement on that, zero
20 restrictions; DP unlimited; vessel security officer
21 endorsement.

22 Q When you worked for Gulf Logistics right around
23 the time of the incident that we're here to talk about, is
24 that the same licensure that you had then?

25 A I had my 1600-ton oceans master, but since then

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1 A Yes, I did.

2 Q Okay. Did you ever attend any vocational
3 schools, technical schools, or college?

4 A Several.

5 Q I'm sorry?

6 A Several.

7 Q Okay. Can you tell us which ones you remember?

8 A H.C.C.

9 Q Okay.

10 A TSTI. As far as maritime schools, let's see.
11 There's A&M Galveston. Houston in Houston, Houston in New
12 Orleans. Oh, my goodness, several. Fletcher Academy in
13 Houma, and probably four or five more.

14 Q Okay. Well, let's start with H.C.C. What course
15 of instruction were you working towards?

16 A Just basics.

17 Q Okay. How long did you go there?

18 A About a year.

19 Q Did you earn any kind of certificate or...

20 A No.

21 Q Okay. Fair enough.

22 A Became a father and had to work full-time.

23 Q Understood.

24 TSTI, what did they do there?

25 A Vocational school.

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1 I've acquired several other endorsements.

2 Q What was the earliest year that you achieved your
3 1600-ton master's license?

4 A Oh, let's see. 2014. Around there. I'm not for
5 sure.

6 Q If you had -- we're going to go through your
7 employment in greater detail. But if you had to give the
8 court and jury an estimate of how many years you have been
9 a captain on any boat, how many years would that be?

10 A 18, something like that.

11 Q The other schooling that you mentioned in New
12 Orleans and Fletcher, are those all tied to your license
13 or --

14 A Yes.

15 Q Okay. That is a process of upgrading your
16 license and getting additional endorsements?

17 A Yes.

18 Q And the -- that information would certainly be in
19 your Coast Guard file, right?

20 A Oh, yes.

21 Q All right. You mentioned living in Waco, Texas.
22 Let me -- let me ask you, other than living in Houston,
23 what other cities in Texas have you lived for more than
24 three months?

25 A Alvin, Texas.

[7] (Pages 25 to 28)

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1 Q Okay. And how about Waco? Were you living in
2 Waco at the time?
3 A Yes.
4 Q How long?
5 A Well, I was going to school there, but coming
6 home on the weekends at my mother's house, but, I guess, I
7 could say I lived there. I also worked there as well.
8 About nine months.
9 Q And --
10 A About nine months.
11 Q Nine months?
12 A Approximately.
13 Q Any other cities in the state of Texas that you
14 lived and worked in for more than three months?
15 A Danbury.
16 MR. LEMOINE: Connecticut?
17 THE DEPONENT: No. By Liverpool in south
18 -- by Alvin. Not Connecticut.
19 Q (BY MR. MECHE:) How long did you live in
20 Danbury?
21 A About nine months.
22 Q And what did you do when you were there?
23 A I was a kid.
24 Q Okay.
25 A Young. Parents.

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1 Q In addition to the licenses that you've talked
2 about, that are maritime-related, do you have any other
3 types of licenses like welding certificates or welding
4 credentials?
5 A No.
6 Q Carpentry?
7 A No.
8 Q Electrical?
9 A No.
10 Q HVAC?
11 A No.
12 Q What about rigging? I'm sure you're rigging
13 certified?
14 A Yes.
15 Q Okay. What about certifications to operate a
16 crane? Do you have any certifications, or have you had any
17 certifications to operate a crane?
18 A No.
19 Q Any other type of license or certification for a
20 particular trade or area of interest that you can tell us
21 about that we didn't --
22 A Yes. Class A CDL.
23 Q All right. How long have you had a class A CDL?
24 A 25 years.
25 Q Okay.

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1 A Approximately.
2 Q Can you give us a summary of what you got the CDL
3 for and what you've used it for, other than the hotshot
4 you've already talked about?
5 A Just for that purpose.
6 Q Okay. So you have been hotshotting for about 20
7 years?
8 A I have had the license to do it for that long.
9 Q Okay. Is that license still current?
10 A It is.
11 Q Has it ever been suspended or revoked?
12 A No.
13 Q Mr. Flora, what I would like to do is ask you
14 some questions about your employment history, and I'm going
15 to try to work backwards.
16 A Okay.
17 Q Where are you currently employed?
18 A Smith Maritime.
19 Q And where are they out of?
20 A They are out of Green Cove Springs, Florida.
21 Q Okay. And how long have you worked for Smith
22 Maritime?
23 A About two and a half years.
24 Q How long after the incident that we're here to
25 talk about did you hire on with Smith Maritime?

[Page 32]

1 A Oh, I think it was in October. So what's that,
2 five months?
3 Q Okay. So this incident happened in May. You
4 started with Smith Maritime in October of '17?
5 A October or November.
6 Q Okay. And we'll get -- we'll get the additional
7 information. If you don't know the exact date, that's
8 certainly okay.
9 What were you hired at Smith Maritime to
10 do?
11 A Mate on an oceangoing tugboat.
12 Q Had you ever worked for Smith Maritime before
13 October of '17?
14 A Yes.
15 Q Okay. And how long did you work for Smith
16 Maritime the first time?
17 A About a year.
18 Q Okay. And what was your position then?
19 A Mate.
20 Q And why did you leave the first time?
21 A To go to another company.
22 Q Okay. Can you give the court and jury a
23 description of what a mate does on an oceangoing tug for
24 Smith Maritime?
25 A Yeah. A lot of navigation, driving from point A

[8] (Pages 29 to 32)

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1 to point B. Mostly distance trips, so you're at the wheel
2 for eight to twelve hours a day. Assisting in tying up the
3 vessel or making sure the vessel is safe. Mostly, in
4 charge of a lot of safety stuff. Fire equipment. And then
5 there is cooking, if you can cook, you know.

6 Q Yeah.

7 A Like, galley work. Like, everybody pitches in.

8 Q How many different vessels have you been on for
9 Smith Maritime?

10 A Oh, maybe four.

11 Q Okay. Can you give us an estimate of what size
12 these oceangoing tugs are?

13 A They vary. One -- the small one is like 75 foot.

14 Q Okay.

15 A But I think the biggest one is around 160.

16 Q How big is the crew, the typical crew on the
17 vessel you're currently serving on?

18 A The last crew I worked with, there was five of
19 us.

20 Q Okay. What are the positions on that boat?

21 A Master, mate -- sometimes two mates --

22 Q Okay.

23 A -- depending on the distance that we're
24 traveling. An engineer, and a QMED.

25 Q And a what?

[Page 35]

1 A Yes. But I'm still looking at getting more
2 experience as a master.

3 Q Uh-huh.

4 A So I'm still in training for that.

5 Q Okay. You mentioned you had a towing endorsement
6 unlimited?

7 A I do.

8 Q Is that part of what you do?

9 A It is.

10 Q Okay. When you got the job at Smith Maritime
11 roughly in October or so of 2017, did you take a
12 pre-employment physical?

13 A No.

14 Q No physical whatsoever required by the company?

15 A Well, it was done over the phone. A friend of
16 mine worked there, and I worked with him in the past, and
17 they needed some help. And they were already aware of my
18 credentials and my past work history with them, so they're
19 in a bind and they needed me on a boat right away, so
20 that's what I did.

21 Q Okay.

22 A I flew in.

23 Q So they didn't require you to go see a doctor?

24 A No.

25 Q Okay.

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1 COURT REPORTER: And a what?

2 A QMED.

3 Q (BY MR. MECHE:) Oiler?

4 A Basically.

5 Q Is it okay to interchangeably use the word mate
6 and relief captain? Do some companies do that?

7 A It varies.

8 Q Okay.

9 A If -- Smith is really good about not putting you
10 in a position that you're not comfortable with.

11 Q Okay.

12 A Now, oceangoing towing is very dangerous, you
13 know. So there's -- working with big barges, it's
14 different conditions. It's not something you want to put
15 on someone without a lot of experience.

16 Q Particularly -- I'm sorry. Go ahead.

17 A That's it.

18 Q You mentioned that you might be on a vessel with
19 two different mates. I'm assuming that means you have a
20 senior mate, and somebody that's lower ranking?

21 A Yes.

22 Q Okay. Like the credentials that you had and that
23 you described for us a moment ago, would that qualify you
24 by licensure and experience to actually be the master of
25 this oceangoing tug that we're talking about?

[Page 36]

1 A Not initially.

2 Q When you reported for duty with Smith Maritime,
3 were you capable of doing that job full duty with no
4 restrictions?

5 A I was capable, yes.

6 Q Okay. Full duty, no restrictions?

7 A Yes.

8 Q Okay.

9 A It wasn't easy, it wasn't painless, but I did it.

10 Q I understand.

11 You still had a valid Coast Guard license
12 at the time, right?

13 A Yes.

14 Q And whatever your most recent U.S. Coast Guard
15 physical, that you had before going to work with Smith
16 Maritime, was still active, true?

17 A Yes.

18 Q Okay. And if you would have had any condition or
19 problem that you felt as a master mariner would invalidate
20 your license, that's something that you would have cleared
21 up before you went to work for Smith Maritime?

22 A Yes.

23 MR. SHEPPARD: Objection, form;
24 speculative.

25 Q (BY MR. MECHE:) I mean, you wouldn't go to work

[9] (Pages 33 to 36)

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1 with -- with the type of license you have and all of the
2 qualifications in that license, you wouldn't go to work for
3 a boat company, especially something as dangerous as what
4 you've just described if you had any physical impediment
5 that did not -- that put you lower than the qualification
6 you had when whether you got your Coast Guard physical?

7 A No. I wouldn't put myself or my crew at risk.

8 MR. SHEPPARD: Objection, speculative.

9 Q (BY MR. MECHE:) Understood.

10 During the course of your time at Smith
11 Maritime, from the time you hired on in '17 until today,
12 how many times have you had to renew your Coast Guard
13 physical? You told us earlier you did one about a month
14 and a half ago.

15 A Yeah.

16 Q Was there maybe one more in that time period?

17 A It would have been two years prior.

18 Q Okay. And where would that particular physical
19 have been done?

20 A That one was done -- the one two years prior was
21 done in Green Cove Springs.

22 MR. LEMOINE: Two years prior to what?

23 THE DEPONENT: To a month and a half ago.

24 MR. LEMOINE: Thank you.

25 THE DEPONENT: You're welcome.

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1 Q (BY MR. MECHE:) In Green Cove Springs?

2 A Yes.

3 Q Do you know where?

4 A No, I don't.

5 Q Is that information something that your employer
6 would have, where you went to get your U.S. Coast Guard
7 physical?

8 A Yes.

9 Q When you -- when you went to that particular U.S.
10 Coast Guard physical, did you get a full and complete bill
11 of health?

12 A Yes.

13 Q Okay. Did you have any restrictions on your
14 physical activities that was noted in your license?

15 A No.

16 Q So again, at that point in time you were fit for
17 full duty, no restrictions?

18 A That's correct.

19 Q Who is your --

20 MR. SHEPPARD: Object as misleading, the
21 last question.

22 Q (CONTINUED, BY MR. MECHE:) -- who is your
23 supervisor at Smith Maritime?

24 A I'm sorry?

25 Q Who is your direct supervisor at Smith Maritime?

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1 A That might be up for debate (LAUGHING).

2 Q If you had to make a phone call regarding your
3 job -- hey, I can't go out on this next job, you know, for
4 these reasons -- who do you have to clear that with?

5 A I guess, primarily, that would be Bob -- what's
6 his last name? Well, Latham Smith is the owner, and he's
7 very personable, and he works on the boats as well. He's
8 80 years old, or close to it, and I don't like to bother
9 him all the time, even though he likes -- he likes to talk.
10 Bob Reamer -- Remmer, R-e-m-m-e-r. That's operations
11 manager, salesperson.

12 Q Okay. Operations manager.

13 MR. SHEPPARD: Can we take a quick break?

14 MR. MECHE: Sure.

15 MR. SHEPPARD: Thanks.

16 VIDEOGRAPHER: Off the record at 10:53 a.m.
17 (OFF THE RECORD.)

18 VIDEOGRAPHER: Back on the record 11:14

19 a.m.

20 Q (BY MR. MECHE:) All right. Mr. Flora, we took
21 our first break. Are you ready to proceed, sir?

22 A Yes.

23 Q All right. Do you stand by all the testimony
24 you've already given us?

25 A Yes.

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1 Q All right. When you worked with Smith Maritime
2 beginning in and around October 2017, are you a W-2
3 employee?

4 A Yes.

5 Q And what is your pay rate when you started?

6 A 350 a day.

7 Q 350 a day.

8 Any benefits come with that?

9 A Medical.

10 Q Okay.

11 A Dental.

12 Q Any other per diems, or any other things that get
13 added onto your day rate with respect to your compensation?

14 A No.

15 Q Other than medical, did you have any other
16 benefit, like 401K, or anything like that?

17 A No. I did receive a bonus and a Christmas bonus.

18 Q Okay. All right. What is your current day rate
19 with Smith Maritime?

20 A 425.

21 Q And when you started, you were a mate and you're
22 still a mate today, correct?

23 A Yes.

24 Q In the pecking order of things for Smith
25 Maritime, on any given shift offshore, how many people do

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1 you have working underneath you?
 2 A If we have an AB onboard --
 3 Q Okay.
 4 A -- he would be considered underneath.
 5 Q What about -- do y'all have deckhands even if
 6 they're not ABs?
 7 A Very seldom.
 8 Q Okay. How many ABs would you normally have on a
 9 shift?
 10 A Varies. One, possibly two.
 11 Q Okay. What about ordinary seaman? Do you have
 12 those?
 13 A Not very often.
 14 Q Okay. And so underneath the mate, you would have
 15 AB or multiple ABs, if that's what you have?
 16 A Uh-huh.
 17 Q Is that correct?
 18 A Yes.
 19 Q Okay. And they would answer to you as the mate,
 20 correct?
 21 A Yes.
 22 Q What is your typical hitch offshore or Smith
 23 Maritime?
 24 A It varies greatly.
 25 Q Okay.

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1 A Most of the oilfield industry is 28/14, but Smith
 2 is not primarily oilfield. Last year I worked six months
 3 straight.
 4 Q All right. Let me ask you this, Mr. Flora,
 5 because I've got -- is it a situation where if you go
 6 offshore for Smith Maritime and you want to stay six months
 7 out there, they'll keep you working?
 8 A If the work is there, yes.
 9 Q Okay. And if you are on a stretch of let's say
 10 three months or six months and you're ready to come home
 11 to, you know, check on the house, so to speak --
 12 A Yeah.
 13 Q -- you can take some time off?
 14 A Yes.
 15 Q So there is no set schedule or set hitch with
 16 Smith Maritime, but if the work is there you can stay out
 17 there as long as you want?
 18 A That's correct.
 19 Q During the period of time that you worked for
 20 Smith Maritime, October '17, roughly to the present, is
 21 there any other employment that you've had when you are
 22 home, other than hotshot, because you've already told us
 23 about that?
 24 A Yes. Cashman, I believe is the name of the
 25 tugboat company.

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1 Q I'm familiar with it?
 2 A And they are in Amelia, Louisiana.
 3 Q Okay. And who is your contact there?
 4 A Carl Parfait is the lead captain. And I only did
 5 like six days there. You know, it's just a fill-in job.
 6 Q How do you spell his last names?
 7 A Parfait, P-a-r-f-i -- f-a-i-t.
 8 Q Oh, okay. Parfait. All right.
 9 Is there any maybe shore-based person that
 10 if you had to return a call to Cashman about a job, and you
 11 had to call the office?
 12 A I just talk with Carl.
 13 Q Fair enough.
 14 So when you're on the beach, Cashman Tugs
 15 and hotshot, any other employer in the period of time
 16 between October on '17 until the present?
 17 A No.
 18 Q Tell me about Cashman Tugs. What kind of vessels
 19 were you operating?
 20 A It's very similar to Smith Maritime, oceangoing
 21 tugs.
 22 Q Okay. And what position did you have for those
 23 six days with Cashman?
 24 A Mate.
 25 Q And what was your rate of pay?

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1 A 650.
 2 Q Okay. 650 a day?
 3 A That's correct.
 4 Q And any other per diems, add-ons, or anything
 5 else that would make up your total compensation?
 6 A No.
 7 Q Were you W-2 employee or independent contractor?
 8 A Independent.
 9 Q Now, when you do work as an independent
 10 contractor, do you have a little company, Mark Flora, Inc.
 11 or just --
 12 A No.
 13 Q All right.
 14 All right. During the period of time that
 15 you worked for Cashman did they require you to get a
 16 pre-employment physical?
 17 A No.
 18 Q During the period of time that you were working
 19 for Smith Maritime from October of 2017 until the present,
 20 were you ever involved in any accident or incident that
 21 required you to seek medical attention of any kind or lost
 22 time from work?
 23 A Yes.
 24 Q Okay. How many times did that happen?
 25 A Once.

[11] (Pages 41 to 44)

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1 Q Okay. And were you working for Smith at the
2 time?
3 A Yes. But let me go back to that question.
4 I was injured, but I did not lose any time.
5 Q Okay. That's fair enough.
6 Tell me what happened to you and how.
7 A I injured my back, a herniated disc.
8 Q What level?
9 A Lower. Lower lumbar.
10 Q Okay. When did this occur?
11 A Oh, boy. It was in Jamaica. About a year and a
12 half ago.
13 Q Okay. And tell the court and jury what happened
14 that resulted in you injuring your back?
15 A We were rigging up a barge, connecting it to our
16 tow cable, and the barge had -- the bridle of the barge
17 that we were connecting our tow cable to was made out of
18 chain. It was very heavy, like 80 pounds per link.
19 Q Yeah.
20 A And we were -- we weren't at the dock when we did
21 it. We were actually going in the stern propulsion about a
22 knot, and the barge is getting towed by the aft of the
23 barge, and we were just staying in sync with it, trying to
24 connect it at the same time. It's a very difficult
25 procedure.

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1 Q Okay. And so you injured your low back as a
2 result. What was the name of the vessel?
3 A I think -- I think that was the RHEA, R-E -- I'm
4 sorry, R-H-E-A.
5 Q Okay. And that's a Smith Maritime vessel?
6 A Yes.
7 Q Owned by them?
8 A Yes.
9 Q Operated by them?
10 A Yes.
11 Q Who was the captain at the time of your injury?
12 A Well, Carl was on that boat, but I don't think he
13 was running master. On that job -- oh, I worked with him
14 briefly. I can't remember his name right now.
15 Q Did you testify earlier that you didn't miss any
16 work because of that?
17 A Yes.
18 Q Okay.
19 A I did not miss any work because of that.
20 Q Did you receive medical attention for that injury
21 anywhere?
22 A I did.
23 Q What locations did you get --
24 A It was a hospital in Morgan City, Louisiana.
25 Q Do you recall the name of the hospital?

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1 A I don't.
2 Q The street?
3 A I'm sorry, I don't.
4 Q What did they do for you there?
5 A They took an X-ray.
6 Q Okay. Anything else?
7 A No. We just discussed what we thought was the
8 problem.
9 Q Okay. And what -- what did the doctor think was
10 the problem?
11 A The conclusion was for both him and I that I
12 herniated a disc.
13 Q Okay.
14 A Did not rupture.
15 MR. LEMOINE: Did not rupture?
16 THE DEPONENT: Did not rupture.
17 Q (BY MR. MECHE:) Do you recall the doctor's name
18 that you were seeing?
19 A I do not.
20 Q What did the doctor recommend you do once it was
21 identified that there was a herniated disc?
22 A I had a belt, like a support belt, and just to
23 take it really easy.
24 Q Okay.
25 A Just let it heal.

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1 Q All right. Did you ever seek any additional
2 treatment after that day where the X-ray was taken?
3 A No.
4 Q So just one visit?
5 A That's correct.
6 Q Okay. Is your back still bothering you at all?
7 A No.
8 Q Did you get any prescription medication as a
9 result of that?
10 A I believe ibuprofen. And maybe Tylenol --
11 Tylenol 4, possibly. But I'm certain ibuprofen, yes.
12 Q Did you lodge any claim or file a lawsuit arising
13 out of that injury?
14 A No.
15 Q Other than that, during the period of time
16 between October of 2017 until the present, while employed
17 by Smith Maritime, did you ever sustain an accident or
18 incident that made you seek medical attention of any kind
19 or lost time from work?
20 A No.
21 Q What about hotshot? During the years since the
22 incident that we're here to talk about, did you ever
23 sustain an accident or incident while being a hotshot
24 driver?
25 A No.

[12] (Pages 45 to 48)

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1 Q All right. Same question with respect to
2 Cashman. Any injuries while working for Cashman?

3 A No, none.

4 Q Now, with respect to Cashman, for example, if
5 work slowed down with Smith Maritime today, and you wanted
6 to go back to work, do you still have a relationship with
7 Cashman where you can pick up the phone, and assuming they
8 have work, you go back to work for them?

9 A Yes.

10 Q Okay. Do you have a written contract with
11 Cashman when you do work?

12 A I did some paperwork with them, and I believe it
13 was just for tax purposes.

14 Q Okay. Maybe to set up the idea that you were an
15 independent contractor, not an employee?

16 A If I remember correctly, yes, that's all it was
17 about.

18 Q You don't have any kind of contract that says,
19 here's what I'm going to do for you, here's not what I'm
20 going to do for you, that sort of thing?

21 A No.

22 COURT REPORTER: Can I have just one moment
23 please?

24 MR. MECHE: Yes.

25 (TEMPORARY PAUSE IN PROCEEDING.)

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1 doing. So it's not a cookie cutter form. Specifically, we
2 talk about, before we do a job, a game plan.

3 Q Okay.

4 A A plan of attack, if you will.

5 Q What would you call that meeting at Smith
6 Maritime? Do y'all call it a toolbox, or just a safety
7 meeting?

8 A Yeah, toolbox meeting.

9 Q Okay. Do you fill out a form?

10 A Sometimes, yes.

11 Q Okay. As a mate, do you conduct those or does
12 someone else conduct the meetings with the rest of the
13 crew?

14 A It varies. Sometimes the master will. But
15 usually the master will want to get us all on the same
16 page.

17 Q Okay.

18 A He's the one that oversees all the job specifics.
19 depending -- like the accident that happened when I hurt my
20 back. You know, we talked about it before we got going,
21 and being that the master was overseeing everything, he's
22 the one that did the toolbox meeting for that.

23 Q Okay. All right.

24 A But mundane stuff, chipping and painting,
25 cleaning, that kind of stuff, that's something that I would

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1 Q (BY MR. MECHE:) All right. With respect to your
2 job as a mate for Smith Maritime, one of the things that
3 you talked about that you were responsible for -- and I
4 don't want to put words in your mouth -- did you say
5 primarily responsible for was safety?

6 A Mates are generally in charge of safety.

7 Q Okay. All right. And can you give the court and
8 jury kind of a little bit more of an explanation of what
9 you actually do on a day-to-day basis with regard to safety
10 in your role as a mate?

11 A Well, there's lots of safety equipment that needs
12 to be checked on. It's pretty much scheduled like the
13 EPIRB, lifeboats, life rings, making sure that, if we're
14 doing a job on the back deck working, that the guys have
15 their gear on for job specific, whatever we're doing.
16 Drills.

17 Q Okay. You're familiar with the term JSA, right,
18 safety meeting -- job safety analysis?

19 A Yes.

20 Q On the oceangoing tugs with respect to Smith
21 Maritime, is that what you guys call your safety meetings,
22 JSA meetings, or is there some other term?

23 A Well, depending on the job, there are very few
24 things that we do in repetition. Things change frequently,
25 depending on the scope or the nature of the work we're

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1 handle.

2 Q And you would also handle that with respect to
3 the lower deck crew that might be on the boat --

4 A Yes.

5 Q -- the ordinary seaman if you have --

6 A Yes.

7 Q -- or AB --

8 A Yes.

9 Q -- you would conduct those meetings to teach the
10 younger guys?

11 A Exactly. Keep them safe. Teach them.

12 Q And that would be part of the oversight role of a
13 mate with respect to lower ranking crew?

14 A Yes.

15 Q At Smith Maritime, did you guys have a policy or
16 procedure manual, every -- like every company calls them
17 something different, but --

18 A Yes.

19 Q -- the big book --

20 A Yeah.

21 Q -- that has all of your safety policies?

22 A Yes, of course.

23 Q Okay. What does Smith Maritime call that?

24 A Oh, my goodness.

25 Q Just your safety manual?

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1 A Safety manual.
 2 Q Okay. Do you have a copy at home?
 3 A I do not.
 4 Q Okay. Do they keep them on the boats for
 5 everybody to have access to?
 6 A Yes, they do.
 7 Q Is there more than one safety manual at Smith
 8 Maritime, or is it all in one book?
 9 A I believe it's vessel specific.
 10 Q Okay. 12-hour watches at Smith Maritime?
 11 A Sometimes.
 12 Q Is it sometimes six-hour watches?
 13 A Eight.
 14 Q Eight?
 15 A Or six. It varies, depending on what we're doing
 16 and how many people we have onboard.
 17 Q All right. Before we move on to other employment
 18 before Smith Maritime, in the period of time between the
 19 incident that we're here to talk about, May 25th, 2017,
 20 until October of '17 when you started with Smith Maritime,
 21 did you work for anyone, whether formally or informally
 22 during that period of time -- May of '17 to October of '17?
 23 A No.
 24 Q Okay. I thought there was some information --
 25 correct me if I'm wrong. Did you do any work for Hurricane

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1 Harvey -- cleanup, any kind of clean-up work with equipment
 2 or anything like that?
 3 A No. I did with Smith, I took several loads of
 4 equipment to Puerto Rico, when they were decimated by the
 5 hurricane. Generators.
 6 Q Okay.
 7 A Work trucks. Thousands of telephone poles.
 8 Q That may be what we're thinking about.
 9 And that was all through Smith Maritime,
 10 correct?
 11 A Yes.
 12 Q Okay. So between May and October, you were not
 13 employed and working anywhere?
 14 A Between May and --
 15 Q May 25th, the time of the incident, and when you
 16 got the job with Smith Maritime, you weren't working
 17 anywhere else?
 18 A I was working at Gulf Logistics.
 19 MR. LEMOINE: Yeah.
 20 Q (BY MR. MECHE:) Okay. And I -- it was probably
 21 a very poor question.
 22 I'm trying to understand, during that same
 23 period of time, May to October, if there were any other
 24 employers?
 25 A Besides Gulf Logistics?

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1 Q Yes, sir.
 2 A No.
 3 MR. LEMOINE: Oh, I'm sorry. I was
 4 mistaken.
 5 Q (BY MR. MECHE:) And so, we're going to get back
 6 to your employment with Gulf Logistics, but before you went
 7 to work for Gulf Logistics, who were you employed by?
 8 A Edison Chouest.
 9 Q Okay. How long did you work for Edison Chouest?
 10 A Right at a year.
 11 Q And why did you leave?
 12 A I didn't want to leave, I was laid off like so
 13 many others.
 14 Q Work slowed down?
 15 A Tremendously. They went from 250 vessel to 87
 16 vessels worldwide. It was just...
 17 Q Devastating.
 18 A It was devastating.
 19 Q What was your position with Edison Chouest?
 20 A I was a mate on a 1600-ton DP supply vessel.
 21 MR. LEMOINE: Does that mean, DP?
 22 THE DEPONENT: Dynamic position.
 23 Q (BY MR. MECHE:) How long was that vessel, was
 24 the size roughly?
 25 A 240.

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1 Q Okay. Now, the vessel that you were working on
 2 for Gulf Logistics at the time of this incident, the
 3 MAGGIE A, how big of a vessel was that?
 4 A I believe it was, like, 205.
 5 Q Okay. And that was a supply vessel as well?
 6 A A crew boat.
 7 Q A crew boat.
 8 A Aluminum hull.
 9 Q Okay.
 10 A Not steel.
 11 Q All right. Going back to Edison Chouest, what
 12 was your day rate with them?
 13 A 770.
 14 Q And who was your direct supervisor at Edison
 15 Chouest?
 16 A Oh, boy. I don't remember his name.
 17 Q Your duties for Edison Chouest, would it be safe
 18 to they were the same at Smith Maritime, or did you have
 19 different duties in your capacity as mate?
 20 A Generally, it was the same.
 21 Q Okay. Including safety?
 22 A Yes.
 23 Q When you went to work for Edison Chouest, you
 24 took a pre-employment physical?
 25 A I did.

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1 Q Okay. And where did that occur?
 2 A In Lockport, Louisiana.
 3 Q Do you know the name of the clinic or anything
 4 like that?
 5 A I don't. I'm not even sure if it was an
 6 independent clinic or if they were owned by Edison Chouest.
 7 Q Okay. Fair enough.
 8 When you went and attended that physical,
 9 did you tell the truth and the whole truth about your
 10 medical condition as it existed at that time?
 11 A At Edison Chouest?
 12 Q Yes, sir.
 13 A Oh, yes.
 14 Q Okay. What was the typical crew on this 240-foot
 15 supply vessel?
 16 A Varied. Eight. Somewhere around there. Eight
 17 to ten.
 18 Q Would you usually have two deckhands on duty with
 19 you?
 20 A Yes.
 21 Q Would you also have a QMED?
 22 A Yes.
 23 Q Anyone else lower than you on the typical watch
 24 on that particular vessel -- two deckhands, a QMED.
 25 A I don't really consider the QMED to be underneath

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1 me. They would be underneath the engineering department.
 2 Q Okay.
 3 A Just a different --
 4 Q A separate --
 5 A Yeah.
 6 Q -- separate branch of the tree?
 7 A Exactly.
 8 Q So underneath you as the mate on this particular
 9 vessel you just have two deckhands?
 10 A During my watch, but there could be four all
 11 together onboard.
 12 Q Okay.
 13 A A cook, I guess would be the answer to it.
 14 Q During your time that you worked at Edison
 15 Chouest did you ever have an accident or incident that
 16 required either medical attention or lost time from work?
 17 A No.
 18 Q Mr. Flora, have you ever failed a drug screen for
 19 any employer?
 20 A No.
 21 MR. SHEPPARD: I bet you get blacklisted
 22 for a year if you do that.
 23 MR. MECHE: What's that?
 24 MR. SHEPPARD: I bet you get blacklisted
 25 for a year if you did that.

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1 THE DEPONENT: You lose your license.
 2 MR. SHEPPARD: Yeah.
 3 Q (BY MR. MECHE:) I think some people apparently
 4 get around it. I don't know how.
 5 All right. So before you went to work on
 6 for Edison Chouest, where did you work?
 7 A I believe it was Abdon Callais.
 8 Q Okay. And what do you for Abdon Callais?
 9 A I was a third captain on a mini-supply boat.
 10 Q What size?
 11 A I believe that was 250 as well, steel hull.
 12 Q And how long did you work for Abdon Callais?
 13 A About a year.
 14 Q And do you recall what your rate was?
 15 A At Abdon, I think I left there at 385.
 16 Q Okay. Any accident or incidents while at Abdon
 17 Callais?
 18 A No.
 19 Q Other than the back injury you told us about and
 20 the injury that we're here to talk about today, have you
 21 ever been injured on the job for any employer that you had
 22 to seek medical attention or lost time from work?
 23 A Yes.
 24 Q Okay. How many -- how many such incidents are we
 25 going to talk about?

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1 A One.
 2 Q And what incident was that?
 3 A Hernia, lower abdominal hernia, and I had to get
 4 surgery for that.
 5 Q Okay. And what employer was that?
 6 A That was Seabulk Offshore.
 7 Q And how long did you work for Seabulk?
 8 A Three and a half years.
 9 Q Can you tell me roughly what year that happened
 10 in?
 11 A Maybe '99.
 12 Q Do you recall where you sought medical attention
 13 or had surgery?
 14 A I had surgery in the med center here in Houston.
 15 Q Do you recall which hospital, Ben Taub or...
 16 A It might have been Ben Taub, I really don't
 17 remember.
 18 Q How long were you out of work as a result of that
 19 surgery?
 20 A A month.
 21 Q Okay. Was is there any particular thing that
 22 caused the hernia? Were you lifting something heavy? Was
 23 there some work accident that you can describe for us?
 24 A It was work-related. I was tightening down the
 25 stuffing boxes on the rudder posts in the lazarette, and a

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four-foot or three-foot wrench -- and it's an awkward position to be in, putting full force on it, and I just tore my lower abdomen.

Q So other than -- other than that incident, the herniated disc you told us about, and the incident that we're here to talk about today, any other accidents or incidents that have occurred while you were on the job for any employer?

A I don't think so.

(EXHIBIT NUMBER 2 MARKED.)

Q (BY MR. MECHE:) Mr. Flora, I'm going to hand this to you. I apologize, I've only got one copy of it. I would like for you to identify this for me, and maybe just hand it back. I don't think I'm going to go through every employer.

A Okay.

Q But this has been produced as your resume as it existed at the time you were hired on with Gulf Logistics.

A (LOOKING AT DOCUMENT.) Yeah, that's it.

Q Okay. Do you maintain a resume in your computer to this day?

A No.

Q Okay. If we were to update your resume, that particular resume that you used to hire on with Gulf Logistics, the only thing we would have to add to it is the

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were all mates; is that correct?

A Yes, but again, depending on the scope of the work, I might run as captain, I might not.

Q Okay. So can we rely on -- in Exhibit Number 2, your resume, those employers that you do list captain, can we rely on the fact that at least at some point in time during that employment you were the captain?

A Yes.

Q All right. Hamza Brothers in Egypt; Fugro in Patterson; CAL Dive International -- those are all listed also as captain.

A Yes.

Q All right. And with respect to Seabulk International, you started off as an ordinary seaman?

A That's correct.

MR. SHEPPARD: You want to pass it down? Those things tend to get mixed up, and we won't lose them.

MR. MECHE: Yeah.

MR. SHEPPARD: I'll try to make a pile over here.

Q (BY MR. MECHE:) And you testified earlier kind of the total number of years that you have been either a mate or a captain, it was approximately 18 years?

A I believe so, yes.

Q Let's move on and talk a little bit about Gulf

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Smith Maritime?

A Besides Gulf Logistics?

Q Yes, and Gulf Logistics, of course.

A I might put in that I worked as a hotshot driver as well.

Q Okay. Let me take a look at that, if you don't mind, sir, when you're done with it.

A Sure. (COMPLYING.)

MR. MECHE: Off the record for just a second.

THE DEPONENT: Sure.

VIDEOGRAPHER: Off the record 11:44 a.m. (OFF THE RECORD.)

VIDEOGRAPHER: Back on the record at 11:44 a.m.

Q (BY MR. MECHE:) All right. Just looking at your resume, Mr. Flora, I'm going to call out some of the employers: Edison Chouest, Abdon Callais, Abe's Boat Rentals, T.D.I. Brooks, Reservoir Geo Services, K&K Offshore. All of those have you listed as being captain as opposed to mate described in your resume; is that correct?

A Yes.

Q Okay. And with respect to Rainbow Marine, Dolphin Marine, Smith Maritime the first time, those you

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Logistics.

How was it that -- how did it come to pass, sir, that you found out about working at Gulf Logistics and came to them for employment?

A I was looking for work in Louisiana, and driving up and down the bayou, several times. I believe it was my fourth or fifth or maybe sixth trip to Louisiana looking for work, and it was after the thousands of layoffs in the Gulf of Mexico. Very difficult to find work. And I just walked in and spoke with them.

Q And who did you deal with at Gulf Logistics with respect to your employment?

A Oh, I don't remember his name offhand.

Q Ralph Lagarde?

A Ralph sounds familiar.

Q Randy Whittaker, maybe?

A Maybe, I think Ralph.

Q Based on your memory -- we have your records -- how long did you work for Gulf Logistics?

A Less than a year.

Q Okay. And do you recall what your rate of pay was?

A It was low. It was 150, maybe 175.

Q And this is after the oil and gas economy tanked, right?

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1 A Yes.

2 Q And my understanding, sir, correct me I'm wrong,

3 you hired on as a deckhand because there was no opening for

4 a captain at the time?

5 A Yes.

6 Q And is it also true that what generally would

7 happen in that situation is if you take a position as a

8 deckhand, once a captain's position opens up and if you get

9 it, then you just move over into that position?

10 A Yes.

11 Q Okay. And as I understand your records, that in

12 fact, happened before you left their employment?

13 A That's correct.

14 Q Okay. You were a captain aboard the

15 MS. ALISSA?

16 A I believe that is the name of that small utility

17 boat.

18 Q Other than that particular vessel, did you

19 captain any other vessel for Gulf Logistics?

20 A No.

21 Q Do you recall what your rate of pay was as a

22 captain before you left Gulf Logistics?

23 A Maybe two and a quarter, 250 something like that.

24 Q Did you take a pre-employment physical in getting

25 the job for Gulf Logistics?

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1 A I don't remember, but I probably did.

2 Q Okay.

3 A Yes, I did.

4 Q Okay. Do you recall where you took the physical?

5 A If I recall correctly, it was the same clinic

6 that the nurse practitioner that examined my arm -- my

7 shoulder, rather, from the accident.

8 Q Does the name Complete Occupational ring a bell?

9 A It does.

10 Q I think we have some medical records, and we'll

11 go over those in a minute.

12 Ultimately after -- after whatever the

13 period of employment was for Gulf Logistics, how did your

14 employment end? Did you get laid off? Did you quit? Were

15 you terminated, or how does that work out?

16 A At Gulf Logistics.

17 Q Yes, sir.

18 A I think I just quit.

19 Q Okay. Did you have other employment lined up at

20 the time?

21 A I was looking to go back working hotshot.

22 Q Okay. And so at the time that you left Gulf

23 Logistics, it was your intention, at least at that time, to

24 go back to doing hotshot work?

25 A That's correct.

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1 Q Okay. Did you, in fact, do that?

2 A I bought the equipment, and I still needed funds

3 to finish getting all the -- getting it operational, and I

4 ran out of funds.

5 Q And that's when you went to Smith Maritime?

6 A Yes.

7 Q Okay. When you say bought the equipment, what

8 equipment were you looking to gather at the time that you

9 left Gulf Logistics in order to further your hotshot

10 business?

11 A The one ton diesel dually.

12 Q Okay.

13 A And rigging it with the gooseneck and everything

14 necessary to haul heavy cargo.

15 Q Okay.

16 A And also, the trailer itself.

17 Q And that's what you were in the process of

18 putting together when you decided to go to work with Smith?

19 A Yes.

20 Q All right.

21 A I bought used equipment, and I had to do a lot of

22 the work to --

23 Q To get it ready?

24 A -- get it going again. Yeah.

25 Q If you had to give the court and jury an estimate

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1 of how much time in either days or weeks or months,

2 whatever your testimony is, for you to not only put the

3 equipment together in terms of gathering the equipment, but

4 like you said, getting it ready, repairing it refurbishing,

5 getting it ready for the hotshot business, how much time

6 would that be?

7 A And financing it, too. From the time that I

8 started negotiating for the truck to the time that I went

9 to go work with Smith, maybe three weeks, something like

10 that.

11 Q What kind of work, specific work, did you have to

12 do to get the trailer set up or get the truck running or

13 anything like that? Can you describe that for the court?

14 A Yes. I had to buy new tires for the trailer,

15 eight of them. I had to get the truck and trailer DOT

16 inspected. I had to have gooseneck connector installed in

17 the truck. Beefed up the suspension to the truck.

18 Q When you say beefed up the suspension, you added

19 some lead springs or shocks?

20 A I added airbags.

21 Q Okay. Is that something you did yourself or you

22 had somebody do?

23 A I did myself.

24 Q And you said these are airbags?

25 A Yes.

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1 Q Do you recall what brand airbags you got to...

2 A No.

3 Q All right. All right. What else did you do to

4 get the equipment ready?

5 A I bought an auxiliary fuel tank.

6 Q Okay.

7 A Straps, binders, chains.

8 Q Everything you need to haul a load?

9 A Yeah.

10 Q Once you had all that equipment, Mr. Flora, what

11 I'm trying to understand is, how does one go about getting

12 the work? You testified earlier that maybe you had someone

13 that was providing you work, or that you were subbing

14 under?

15 A Yeah. There is a company, Jayway, and -- Jayway.

16 Q Jayway?

17 A Jayway. Jayway Delivery, I believe.

18 Q How do you spell that? I mean...

19 A J-a-y-w-a-y.

20 Q Okay.

21 A Way.

22 Q All right. And what does that company do?

23 A It's a hotshot company.

24 Q Okay. And you had a relationship with those

25 folks where they would send you some business?

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1 A I found them on the Internet.

2 Q All right. Good.

3 A Yeah. And they work with Gilbreath under their

4 license.

5 Q Okay. Now, at some point after you left your

6 employment relationship with Gulf Logistics did you apply

7 for work at Gilbreath?

8 A No.

9 Q Okay.

10 A Sorry. I did, but not before Smith.

11 Q Okay. You applied -- you ultimately applied for

12 employment at Gilbreath after you started working with

13 Smith?

14 A That's correct.

15 Q Okay. Was that intended to be additional

16 employment or replacement employment for Smith?

17 A A plan B.

18 Q Understood. Totally understood.

19 Did you end up getting along with

20 Gilbreath? Did they hire you?

21 A Yes.

22 Q Did you ever actually go to work for them?

23 A I did.

24 Q Okay. And am I to understand that the work you

25 did with Gilbreath was when you were off duty with Smith?

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1 A That's correct.

2 Q Okay. When you worked for Gilbreath, how long

3 did that employment last, or is it still going?

4 A I recently quit.

5 Q Okay.

6 A Yeah.

7 Q Okay. And why did you quit Gilbreath?

8 A It wasn't fair to them or to Smith Maritime to

9 moonlight.

10 Q Yeah.

11 A You know, I needed to commit --

12 Q Yeah.

13 A -- to one or the other. So I went with Smith.

14 Q How did you get paid with Gilbreath? Was it a

15 day rate, mileage rate, or how did you get --

16 A A percentage per the load.

17 Q Okay. Did you have to take a pre-employment

18 physical to go to work for them?

19 A Yes.

20 Q Okay. And do you recall where that occurred with

21 respect to Gilbreath?

22 A No. I don't know the name of the place, but it

23 happened in Houston.

24 Q In Houston?

25 A Yeah.

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1 Q Did you ever have an accident or incident while

2 doing hotshot work for Gilbreath?

3 A No.

4 Q If you chose to go back to doing that kind of

5 work, that's something that would probably be available to

6 you?

7 A Yes.

8 MR. SHEPPARD: Object to form; speculation.

9 Q (BY MR. MECHE:) Who did you talk to or

10 communicate with at Jayway in order to get work, your point

11 of contact?

12 A Jason. I don't remember his last name.

13 Q Where are their offices located?

14 A North -- northwest Houston.

15 Q Do you know what street?

16 A I'm sorry, I don't remember the address.

17 Q Make sure I understand, after you left the

18 employment of Gulf Logistics, the hotshotting that you did

19 through Jayway, was that your actual first employment? The

20 first work that you did after -- after separating from Gulf

21 Logistics?

22 A It was not.

23 Q Okay.

24 A It was the second.

25 Q Okay. Which was the first?

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1 A Smith.
 2 Q Okay. I wanted to make sure I had that straight.
 3 So you go to Smith Maritime somewhere
 4 around October. And then, you started doing the hotshot
 5 work.
 6 A Afterwards.
 7 Q And then ultimately --
 8 A Several months.
 9 Q -- you applied at Gilbreath?
 10 A Yes.
 11 Q All right. Gotcha.
 12 A Yes.
 13 Q All right. Mr. Flora, we have some employment
 14 Bates records that were provided by Gulf Logistics, and
 15 there's a -- there's a termination report or separation
 16 report when an employee leaves the company. It describes
 17 the reason as: Quit, found other employment.
 18 Would you agree that that's accurate?
 19 A May I see that?
 20 Q Yes, absolutely. (COMPLYING.)
 21 A I quit, but I didn't find other employment. I
 22 just quit.
 23 Q When you separated from Gulf Logistics, you did
 24 not yet have other employment?
 25 A I did not have a lock, no.

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1 Q Okay.
 2 A No. I had the intention of moving forward with
 3 hotshot.
 4 Q Okay. All right.
 5 A Okay. Thank you. (RETURNING DOCUMENT.)
 6 Q Before we get into the details of the accident, I
 7 just want to ask you a few other general questions about
 8 your background, sir.
 9 Have you ever filed a lawsuit in your life,
 10 other than the one that we're here to talk about?
 11 A A lawsuit?
 12 Q Yes, sir.
 13 A A bankruptcy.
 14 Q Okay. And how many years ago was that?
 15 A Oh, just shortly after my layoff at Edison
 16 Chouest. So maybe five years ago.
 17 Q Okay. Do you recall what court, where that was
 18 pending? Here in Houston?
 19 A It was in Harris County, Houston.
 20 Q Any other lawsuit besides the bankruptcy lawsuit
 21 and the case that we're here to talk about?
 22 A Not that I recall.
 23 Q All right. Have you ever been terminated from
 24 any employment?
 25 A Terminated?

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1 Q Fired?
 2 A Fired?
 3 Q Yes, sir.
 4 A Sure.
 5 Q Let me ask a better question, Mr. Flora.
 6 Have you ever been terminated from a job
 7 where you had a position on a boat?
 8 A Yes.
 9 Q Okay. What company was that?
 10 A That was Fugro.
 11 COURT REPORTER: Who?
 12 THE DEPONENT: Fugro, F-u-g-r-o.
 13 Q (BY MR. MECHE:) How long ago was that?
 14 A Oh, goodness. Maybe ten years.
 15 Q What was the reason that they gave you that they
 16 were terminating your employment?
 17 A I had to go do a physical, I was hurt, I was
 18 injured, and I went to Lafayette, Louisiana. I was off the
 19 boat for over 24 hours. Prior to going and doing the
 20 physical the next day, I was in a hotel room, and I drank
 21 alcohol and it showed up on the physical the following day,
 22 200 miles away from the boat.
 23 Q You mentioned something about being injured.
 24 What injury did you have when you went to Lafayette for the
 25 physical?

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1 A We were hit by another vessel, a collision.
 2 Q Okay.
 3 A While we were at the dock. And I was just sore,
 4 and I mentioned that to the safety guy, and he said well,
 5 we need to get you checked out.
 6 Q What body parts were sore or...
 7 A Just muscle soreness. Like, middle of my back.
 8 You know, nothing -- nothing real serious.
 9 Q Did you seek medical attention at any location
 10 other than where you got the physical?
 11 A No.
 12 Q Have you ever filed any sort of workers'
 13 compensation claim in your life?
 14 A Workman's comp?
 15 Q Any type of claim against your employer alleging
 16 that you were hurt and were entitled to benefits?
 17 A Maybe that would be included when I had my
 18 surgery for my hernia.
 19 Q Okay. Anything else?
 20 A Not that I recall.
 21 Q Other than your hernia repair, have you ever had
 22 any surgery in your life, other than that?
 23 A Maybe stitches, minor, when I was a kid but no
 24 broken bones --
 25 Q Any other --

[19] (Pages 73 to 76)

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1 A -- besides my shoulder.
 2 Q I'm sorry. I didn't mean to interrupt you.
 3 A That's okay.
 4 Q Any other -- any overnight hospitalizations in
 5 your life for any reason?
 6 A Several, when I was a kid.
 7 Q Okay. Anything as an adult?
 8 A Well, that back injury; I went to the hospital to
 9 get X-rayed.
 10 Q Okay.
 11 A I've had two MRIs on my shoulder.
 12 Q Okay. And we're going to -- we're going to talk
 13 in detail about the lawsuit injury in a minute. Right now
 14 I'm trying to figure out what -- about everything else.
 15 A Okay. Not to my recollection, on my body.
 16 Q Mr. Flora, who historically has been your family
 17 doctor? You've lived in the same place in Houston for
 18 20-plus years. If you had to go get a flu shot, if you had
 19 a cold or something where you had to see a family doctor?
 20 A I don't have anybody specific. I have been very
 21 fortunate.
 22 Q Good for you.
 23 A Yeah, yeah. I was very lucky.
 24 Q Have you ever have a family doctor as an adult
 25 that you remember the doctor's name?

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1 A As a child?
 2 Q No, as an adult.
 3 A As an adult, no.
 4 Q Okay. If -- from where you live in Houston, if
 5 you had to go to the emergency room for some reason, what
 6 hospital do you go to?
 7 A I don't even know. Wherever they would take me.
 8 Q Wherever they would take you. All right.
 9 A Yeah. Oh, I'm sorry. I just jogged my memory,
 10 that I did go to the hospital. I was hit by a drunk
 11 driver.
 12 Q Okay.
 13 A That was a bad drunk driver.
 14 Q When did that happen?
 15 A About 17, 18 years ago.
 16 Q Okay. What parts of your body were injured?
 17 A My lower back.
 18 Q Anything else?
 19 A No. Just scrapes, bruises.
 20 Q Okay. It's your left shoulder that we're here to
 21 talk about today, correct?
 22 A Yes.
 23 Q Prior to the incident that's described in your
 24 lawsuit, have you ever injured your left shoulder in your
 25 life, where you had to seek medical attention or miss time

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1 from work?
 2 A I had a shoulder injury, but I don't remember if
 3 it was my left or my right. And it was years ago before
 4 working offshore.
 5 Q Okay. How did you injure your shoulder those
 6 years ago?
 7 A I was involved in a car accident.
 8 Q Okay. And where did that car accident occur?
 9 A Here in Houston.
 10 Q Okay. Can you give us a description, what
 11 happened?
 12 A A dump truck overturned on I-10, and the gear oil
 13 leaked all over the highway, and I went through the oil
 14 slow, but it was like going over ice. There was a tow
 15 truck on the feeder, and I hit it with the front of my
 16 truck.
 17 Q Okay. Other than a shoulder injury, what other
 18 body parts were injured or you had pain in as a result of
 19 that accident?
 20 A That was it.
 21 Q Okay.
 22 A Neck.
 23 Q All right. Where did you go for treatment?
 24 A I don't recall.
 25 Q Were you taken to the hospital by ambulance, or

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1 did you drive there yourself?
 2 A I drove there myself.
 3 Q Okay. You don't recall what hospital?
 4 A Well, I didn't seek treatment that day.
 5 Q Okay.
 6 A Yeah. It was the next day, I was very sore.
 7 Q Okay. Were you living at the Erie address at the
 8 time?
 9 A No.
 10 Q Where were you living?
 11 A Oh, possibly in the Heights.
 12 Q Okay.
 13 A Maybe West University.
 14 Q And you don't recall where you went for medical
 15 attention?
 16 A No.
 17 Q Can you at least tell us was is it a hospital or
 18 did you go to some walk-in clinic or do you know?
 19 A It was a walk-in clinic, I believe.
 20 Q And as you sit here today and you think back to
 21 that, you don't recall whether it's your left or right
 22 shoulder?
 23 A No.
 24 Q Is it possible it could be your left shoulder?
 25 A I suppose.

[20] (Pages 77 to 80)

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MR. SHEPPARD: Objection, speculation.

Q (BY MR. MECHE:) Any other time in your life that you injured your left shoulder -- and I understand your testimony is that you're not sure on this particular...

Any other injury to your left shoulder in your life that you had to seek medical attention or miss time from work?

A Not that I recall. Oh. And that -- that jogged my memory. As far as lawsuit, I had a lawyer that had a lawsuit on that case, for the -- that accident for the shoulder -- I mean, for the neck.

Q Okay. The one that you just described for us?

A Yeah, yeah, yeah, yeah, yeah. Yeah.

Q Do you recall what lawyer it was is? Was it the Texas Hammer?

A It was one of those television guys.

Q Yeah.

A One of those guys.

Q You don't recall who it was?

A Jim Adler? I don't know.

Q That's the Texas Hammer.

A One of those guys. It could have been him.

Q Okay.

A Yeah.

Q Do you recall what court your lawsuit was filed in?

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A Yes.

Q And it had to do with the injury to your neck and one of your shoulders that you described earlier?

A Yes.

Q All right. Do you recall how long you treated for that problem after the car wreck?

A Several times, but maybe a dozen. I really don't recall. It was a long time ago.

Q Do you recall who your employer was at the time that that occurred?

A I don't know if I had any lost time, possibly. But the employer, maybe, City Courier.

Q Okay.

A Maybe. That was -- that was a long time ago.

Q All right.

A 28 years ago, something like that.

Q I understand, sir.

As I understand the claims that are made in this lawsuit, and the records that have been provided to us, is it fair to say that the only body part that you have had active treatment of since the time of the incident on the MAGGIE A until you stopped treating, if you stopped treating, is your left shoulder?

A The back injury at Smith.

Q Let me rephrase it.

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A No.

Q Would it have been Harris County?

A Oh, yeah, it should have been.

Q Because you were living there, right?

A Yeah. Should be.

Q How did that claim, that lawsuit pan out? Did you settle the case?

A Yes.

Q Okay. Do you recall how much you recovered?

MR. SHEPPARD: Oh. Just to be careful, I don't want him -- I don't know if there is some kind of confidentiality agreement he would have with that, so --

MR. MECHE: Well, he doesn't know.

MR. SHEPPARD: I don't want to -- I doubt if anyone is going to come back, but if this is going to be something, like a confidential settlement, I don't know if he can get into it. I didn't even know about it. I'm just -- just saying --

A I don't recall the amount. But it was -- it was nothing very significant.

Q (BY MR. MECHE:) And I appreciate you -- if something jogs your memory, and you want to throw it in there, we appreciate the information.

Okay. So you had a lawsuit, likely in Harris County that got resolved short of trial?

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A I'm sorry.

Q Yeah, because it was a long question.

A Maybe I -- I'm sorry.

Q I'm trying to find out with respect to your incident on the MAGGIE A, is it correct to say that the only thing that you've actively treated on was the left shoulder?

A Yes.

Q Okay. You haven't received any neck treatment as a result of the May 2017 incident?

A I was examined. I injured my foot.

Q Okay.

A My back was sore. My neck was sore. My head was hurt.

Q Okay.

A But as far as actual treatment for that, just examination.

Q Okay. So the initial examination focused on all the areas that you just described that you had pain or limitation in; is that correct?

A Yes.

Q After that initial treatment, the remainder of your treatment was for left shoulder?

A That's correct.

Q All right. We were talking about your -- about

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whether you had a family doctor or emergency room of choice. What about pharmacies? If you had to fill a script from where you live, is there a particular pharmacy you go to? Walmart, Rite-Aid, or...

A I had a tooth pulled recently.

Q Okay.

A And I went to C.V.S. across, maybe five blocks from my house.

Q Okay. What street is that C.V.S.?

A It's on Broadway and Bellfort. Bellfort.

Q All right. So you hired on with Gulf Logistics. You have an impressive resume of a lot of positions as mate and captain for a whole bunch of other companies. But as I understand your earlier testimony, what we were talking about is, there was no captain job available. You were looking for work because the economy had slowed down tremendously.

A Yes.

Q You're coming from Texas to look for work down the bayou in Louisiana.

A That's correct.

Q And you find a position that the deckhand job is open, and the thought was you were going to take that position and just take the next captain job, if one became available?

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sea time?

A MAGGIE A.

Q Okay. Before you left Gulf Logistics, did you complete the required amount of sea time that you needed for DP2?

A Yes.

Q All right. Back in May of 2017, on the MAGGIE A what hitches were you guys working and what watches?

A Generally 28/14. And we were working 12 to 12, 12-hour shifts.

MR. LEMOINE: What did you say, 24 what?

THE DEPONENT: 28/14.

MR. LEMOINE: Thank you. I'm sorry.

THE DEPONENT: Sure.

Q (BY MR. MECHE:) Which shift were you working?

A It varied.

Q Okay. My understanding is that the incident that we're here to talk about occurred around 7 o'clock in the morning; is that correct?

A Yeah.

Q Okay. So would it be fair to say at the time of the incident you were working the midnight to noon --

A Yeah.

Q -- hitch -- excuse me, shift?

A Yes.

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A Yes. And another thing that made that job attractive was that they have several vessels that are DP2 certified.

Q Okay.

A Which is an endorsement that I wanted to complete.

Q Okay.

A It's a very long process to get that endorsement, and really important for my license to have that endorsement.

Q Did you ultimately get that endorsement?

A I did.

Q Did you get it through Gulf or through Smith?

A They were -- they helped me with my sea time, which was part of our agreement, that if a position became available on a vessel that's DP2 certified, that I would work on that vessel and get DP sea time --

Q Okay.

A -- to help acquire that.

Q Is that part of how you got to the vessel, ALISSA?

A No.

Q Was the ALISSA DP2?

A No.

Q Which vessel for Gulf Logistics did you get DP2

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Q Okay. Do you recall who was on duty with you that day?

A The captain at the time of the incident?

Q Yes, sir.

A Was Lester. Lester James.

Q Okay.

A And the OS deckhand that was with me on the deck, I don't remember his name.

Q There are some records that suggest it might have been a fellow by the name of Bruce Bolt.

A Yes. Yeah, I believe so.

Q Did you have any problems with either the captain or the deckhand during your time with Gulf Logistics?

A Yes.

Q Okay. Tell me about that?

A It was with the captains, the lead captain and the relief captain.

Q Okay. What was -- is Lester James, is he the relief captain or the head captain?

A He's the relief captain.

Q Okay. And who's the other captain?

A Oh, goodness. It starts with a D. You know I'm really glad I forgot his name, because he was terrible to work with.

Q Okay. Well, tell me about the captain that you

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1 were on duty with at the time of the incident. What -- did
2 you have problems with him?

3 A Yes.

4 Q Okay. Tell me about those.

5 A He was unsafe.

6 Q Okay. And how so?

7 A What comes to mind, for several months I had
8 mentioned to him -- one of our duties as a deckhand is to
9 make engine room watches. There is no designated engineer
10 onboard. So every 30 minutes we go down there and we look
11 at the engines and make sure there are no leaks or fires.
12 And -- the generator room, a separate compartment, was --
13 the exhaust fans going into the generator room was sucking
14 in exhaust from the main engines being expelled on the
15 deck, making it very difficult to breathe, if not
16 impossible to breathe while we were underway and inspect
17 that.

18 I would hold my breath when I opened that
19 hatch and try to do the inspection without breathing. But
20 my eyes would burn before I would leave that compartment,
21 or pass through it to go to another compartment farther
22 back. And very unsafe, very unhealthy. Toxic.

23 After looking at the set up, the exhaust
24 fans, and seeing that they should have been blowing or
25 sucking in a different position, and letting Lester know

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1 Q Okay. If you had to give the court and the jury
2 your best estimation of how long you had been complaining
3 to the captain and nothing was being done, how much time
4 would you tell us?

5 A 45 days.

6 Q Okay.

7 A Yes. And the reason that the other guys wouldn't
8 report it, because everybody was job scared working with
9 those two captains.

10 Q Okay.

11 A They were notorious for going through deckhands
12 left to right.

13 Q Okay.

14 A Terrible reputation.

15 Q Let me make sure I understand. You said 45 days
16 but I think earlier you said several months.

17 A Well, like, minimum 45 days.

18 Q Okay. So somewhere between 45 days and several
19 months?

20 A Yes.

21 Q Okay. In that period of time, Mr. Flora, did you
22 ever fill out anything in the logs regarding the problem
23 that existed and the fact that the captain wouldn't fix it?

24 A No. I did my job making verbal report to the
25 captain.

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1 this several times, he refused to do anything about it.

2 Q Okay.

3 A Until the senior deckhand said he was getting
4 headaches and eyes were burning.

5 Q And who was the senior deckhand; do you recall?

6 A I don't recall.

7 Q Was it -- was it the same other deckhand besides
8 Bruce Bolt that was on the boat on the day of your
9 accident?

10 A No.

11 Q Do you recall that senior deckhand's nickname?
12 Could you describe him for us?

13 A Offhand, no. Oh, yeah, I could describe him.

14 Q Okay.

15 A I'd say he's in his late twenties, probably
16 5'10", 5'9", something like that. A black -- dark skinned.
17 Average weight.

18 Q All right. So if I understand your testimony,
19 sir, that's something, I think you said for several months
20 you had been complaining to Captain Lester James about,
21 what you just described, and he refused to do anything to
22 fix it, until the senior deckhand complained about it.

23 A That's correct.

24 Q Was it -- was it repaired after that?

25 A Yes.

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1 Q Okay. Did you ever make any phone calls to
2 someone shore-based at Gulf Logistics regarding that issue?

3 A No.

4 Q Okay. Did you have complete any form that Gulf
5 Logistics had regarding this problem that you just
6 described?

7 A I was scared to do so.

8 Q And I understand, sir. But that wasn't my
9 question.

10 My question was: Did you ever fill out a
11 form for Gulf Logistics regarding that incident?

12 A No.

13 Q Did you ever send any email to anyone in the
14 company describing that situation of the serious health
15 concerns that you had --

16 A No.

17 Q -- and the fact that the captain would not
18 respond to you?

19 A No.

20 Q Okay. Did you ever send any text messages to
21 anyone in the company, or really anyone outside of the
22 company regarding this whole thing?

23 A Not that I recall.

24 Q Okay. Did you ever fill out a report of any kind
25 or character [sic] regarding the equipment problems that

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1 led to this exhaust situation that you just described?

2 A I don't recall.

3 Q All right. So that's one example.

4 Is there any other example that you can
5 tells us about regarding problems that you had with the
6 relief captain, Captain Lester James?

7 A Yes.

8 Q Okay. Tell us, sir.

9 A It's rare, in my 22 years offshore, to work with
10 a captain with such disregard for his crew. Abuse of his
11 authority is the best description I could -- I could give
12 Lester James.

13 Q Okay. And I want to make sure that I understand,
14 if there is a difference between a personnel issue where
15 there is abuse of authority versus a specific incident.
16 For example, sir, you just described to us some equipment
17 that you believe was malfunctioning that was endangering
18 people's health --

19 A Yes.

20 Q -- that maybe impeded the operation of the
21 vessel.

22 A Yes.

23 Q You testified that you reported it to the captain
24 for a period of time, and he didn't fix it until someone
25 else reported it --

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1 A That's correct.

2 Q -- or complained about it.

3 A That's right.

4 Q Is the abuse of authority that you're describing
5 in this next thing, is that something that's more
6 personality related?

7 A No.

8 Q Okay. Can you give us a specific example or some
9 specific examples of his abuse of authority that you just
10 described?

11 A Yes.

12 Q Go ahead.

13 A When I first started working on that vessel,
14 and mind you, I haven't worked on a crew boat for almost
15 20 years at that point, and things change over a course of
16 that many years anyway, procedures change, from when I've
17 worked on a crew boat back in '98 to 2001. And we're
18 rigging up cargo go on the back deck, and I've never rigged
19 on that vessel before with that crew, that type of cargo.
20 You know, I just haven't done it before. And I wanted
21 instruction from Lester James. I wanted communication via
22 radio, and for him to supervise me loading the cargo and
23 have communication. He refused to have a radio. And if he
24 did have a radio at any time it wasn't turned on. And then
25 after loading the cargo, if it was done incorrectly, he

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1 would berate me on that.

2 Q Okay. The example you gave, can you describe
3 what kind of cargo? Was it tote tanks or baskets or that
4 sort of thing?

5 A Yes, the normal stuff you take to a drilling rig.

6 Q Yeah.

7 A Pipe, Conex boxes, grocery boxes, large steel
8 boxes, mostly.

9 Q The type of cargo that's taken offshore and
10 brought back day in and day out, correct?

11 A Yes.

12 Q Okay. And would it be fair to say, Mr. Flora,
13 that anybody who is rigger certified, that's the kind of
14 thing that they work with a ton in the Gulf of Mexico,
15 because that's the kind of equipment that gets moved?

16 A Well --

17 MR. SHEPPARD: Objection, speculation.

18 A (CONTINUED:) -- every vessel is different.
19 Again, this is an aluminum hull vessel. They're lighter.
20 They don't haul as much cargo as supply boats do, which I'm
21 very familiar with. Weight is a big factor. The position
22 that the cargo is loaded is a big factor, as far as the
23 trim of the vessel. It's more difficult to adjust that,
24 after the fact; you know, almost impossible on those crew
25 boats. So it's very important. The preference of the crew

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1 -- what's the standard operating procedures on that vessel?
2 You know, it varies. You know, even a seasoned deckhand
3 would want to do it the same way that they are accustomed
4 to doing it.

5 So I didn't think what I was asking for was
6 unreasonable. As a matter of fact, it was in the JSA that
7 we have radio calls to do that.

8 Q Okay.

9 A And being a captain prior to that, in training
10 all kinds of people, I was honestly asking for help and
11 advising me where things should go.

12 Q Okay.

13 A Yeah.

14 Q Is it your testimony today, Mr. Flora, that with
15 all of the experience that you had in this industry up
16 until that point that you needed the captain to show you
17 how you to rig up the cargo?

18 A Again, this is a crew boat. I have been working
19 on steel hull vessels.

20 Q I understand the material that makes up the boat
21 is different.

22 A Yes.

23 Q But that's not my question.

24 A Yeah.

25 Q My question is simply: Is it your testimony

[24] (Pages 93 to 96)

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1 today, are you telling this jury that with all of the
2 experience that you had up until that point, how to hook up
3 to the cargo was something that you needed the a captain's
4 assistance?

5 A I can hook up to the cargo.

6 Q Okay.

7 A But how it's loaded and the preference of the
8 captain, it's not up to me, it's up to the captain.

9 Q Okay. And your testimony is because he refused
10 to have radio communication with --

11 A He refused to follow the guidelines of the JSA.

12 Q Okay.

13 A Refused several times.

14 Q All right.

15 A And berate me, if I did it incorrectly.

16 Q I understand.

17 A That is an abuse of authority.

18 Q When that happened, is there any place that you
19 e-mailed, texted, called, filled out a form, put something
20 in the logs -- is there anything documented about those
21 things that occurred?

22 A No.

23 Q All right. Fair enough.

24 Did you have occasion when something like
25 that happened, did you try to stop the job at any time?

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1 Q Okay. All right. Is it your testimony -- strike
2 that.

3 You weren't fired from Gulf Logistics
4 because of a confrontation with any captain, were you?

5 A No.

6 Q You weren't fired for stopping a job along the
7 lines of what you described?

8 A No. In my opinion, the lead captain should have
9 been fired.

10 Q Okay.

11 A For his behavior.

12 Q Did you ever communicate those concerns to anyone
13 shore-based?

14 A Yes.

15 Q Okay. And it was by voice?

16 A Yes.

17 Q Okay. Never in writing?

18 A No.

19 Q All right. Who did you talk to?

20 A The ops manager, and I'm sorry, I don't recall
21 his name. It could have been Ralph. When -- when Berry
22 continued this explosive hostility for no reason
23 whatsoever, when that continued, I absolutely could not
24 work with him any longer, and that's when I called to get
25 me off that boat.

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1 A I did.

2 Q Okay. And what happened with that?

3 A Shrugs. Maybe derogatory remarks. At one
4 instance, I thought I was going to be in a physical
5 confrontation. Another captain was cursing me at the
6 highest volume he had in his capacity for calling an
7 all stop on a job, in lightening storm offshore.

8 Q Okay. And what captain was that?

9 A Barry.

10 Q Barry?

11 A Yeah.

12 Q B-e-r-r-y?

13 A Yeah, nicknamed The Bear.

14 Q Okay.

15 A I think it's Berry, the other -- the lead
16 captain.

17 Q Okay. Is that the lead captain that you were
18 trying to find the name of earlier, or is this a third
19 captain?

20 A I think it was Berry.

21 Q Is it possible that we're talking about three
22 people and not two?

23 A There are three captains onboard.

24 Q Okay.

25 A But the third captain, no problems whatsoever.

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1 Q Okay. What boat was that by the way?

2 A I think it was the MAGGIE A, the big one, 205.

3 Q Okay. Was that before or after the incident that
4 we're here to talk about?

5 A That was after.

6 Q Okay. So sometime after the incident that the
7 lawsuit is based on is when you called the ops manager and
8 told him about the issues that you had with Berry and that
9 you wanted off the MAGGIE A?

10 A Yeah, it was -- it was after that, and it was the
11 day that I got the sea time required to get that. I wasn't
12 going to let that type of person keep me from achieving my
13 goal of getting that major endorsement.

14 Q Okay.

15 A And I suffered through it. And forgive me, but I
16 feel nauseous just rethinking that experience. It was
17 horrible.

18 Q I understand. I'm just here to get your
19 testimony, sir.

20 All right. So you talked to the operations
21 manager. What boat did you go to when you left the MAGGIE
22 A?

23 A If I remember correctly, I went directly to the
24 ALISSA.

25 Q And in the position of a captain, correct?

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1 A Yes.

2 Q And how long did you work on the ALISSA as a
3 captain?

4 A A few months.

5 Q If you had to quantify, sir, the number of
6 incidents, run-ins, whatever you want to call it between
7 you and Captain Berry, and you and Captain James, how many
8 would that be?

9 MR. SHEPPARD: Object to vague.

10 You can answer.

11 A Run-ins?

12 Q (BY MR. MECHE:) You've described a couple of
13 incidents that you had with these men. I'm trying to find
14 out how many more?

15 A These -- it seemed their objective was to
16 create/cause as much conflict as possible. Not that I
17 indulged them in that. It's water to a duck for the most
18 part. But run-ins from them? Towards anybody in the crew?
19 It was a daily thing. It was an hour-by-hour thing. The
20 were just horrible towards us.

21 Q I guess that's what I'm trying to understand. Is
22 it your testimony -- you're telling the court and jury that
23 for the entire time you worked for Gulf Logistics up until
24 the time you transferred to the MISS ALISSA, that you had
25 problems with both Captain Berry and Captain James for

1 Q Okay. What is that third captain's name?

2 A God bless. I don't recall his name. I would
3 have to look on my phone or something, but I don't have my
4 phone with me.

5 Q Was he the third captain on the MAGGIE A?

6 A Yes.

7 Q Was he the third captain on the MAGGIE A on the
8 hitch when this incident occurred that we're here to talk
9 about?

10 A He was.

11 Q Okay. So we can just go to the logs or whatnot
12 and find his name?

13 A Now, the day of the incident, yeah, he was on the
14 vessel.

15 Q Okay. On the date of the incident?

16 A Yes.

17 Q Okay. And that captain recommended that you not
18 serve aboard the MAGGIE A?

19 A He warned me of the other two captains'
20 reputation.

21 Q Okay.

22 A He warned me of that. And I was, you know,
23 determined to get my DP unlimited, so I took the chance. I
24 worked with difficult people before, but these are very
25 special people. (LAUGHING.)

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1 things like what you've already testified to?

2 A Yes.

3 Q Okay. Any other captains that you had problems
4 with or other crew members you had problems with other than
5 Lester James and the Bear Berry?

6 A No.

7 Q All right. And again, I'm not criticizing, but I
8 want to make sure we're clear on the record. Is there any
9 shred of paper or digital evidence of you communicating
10 those things to anyone in the company --

11 A No.

12 Q -- or outside of the company?

13 A No.

14 Q All right.

15 A But it's well-known that they go through
16 deckhands like crazy. I was warned prior to getting on
17 that vessel not to go --

18 Q Okay.

19 A -- but I was determined to get my DP unlimited.

20 Q And who warned you not to go on that vessel?

21 A The third captain, as a matter of fact, who I
22 worked with prior.

23 Q You worked at prior to Gulf Logistics or prior
24 to --

25 A Prior to that vessel.

1 Q During your employment with Gulf Logistics, did
2 you ever have any type of incident of -- where there was
3 discipline, paperwork-type stuff done as between you and a
4 captain, where some form was filled out that -- we're
5 complaining about Mark Flora, because he did this, or I'm
6 complaining about Captain James because he did that?

7 A No.

8 Q And you're sure about that?

9 A I'm pretty sure about that.

10 Q You understand that lawyers want paper.

11 A Yeah.

12 Q I'm trying to find the paper?

13 A Yeah, yeah.

14 Q As far as you know, there is no paper like that?

15 A Not that I could -- that I can recall.

16 MR. SHEPPARD: About ready for a break
17 or... It's been about an hour. Just need to run to the
18 restroom.

19 MR. MECHE: Sure. Absolutely.

20 MS. FORDYCE: Do you want to break for
21 lunch at all or...

22 MR. MECHE: That's what I was going to ask
23 you guys.

24 MR. SHEPPARD: If y'all want to that's fine
25 by me.

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1 VIDEOGRAPHER: Off the record at 12:34 p.m.
2 (OFF THE RECORD.)

3 VIDEOGRAPHER: Back on the record at
4 1:28 p.m.

5 Q (BY MR. MECHE:) All right, Mr. Flora. We took a
6 short lunch break. Are you ready to proceed, sir?

7 A Yes, sir.

8 Q All right. Before we took a lunch break, I
9 think we were about ready to start talking about the
10 May 25th, 2017, incident aboard the MAGGIE A.

11 Mr. Flora, can you tell the court and the
12 jury, in your own words, what happened?

13 A Okay. We were offshore, working with I believe
14 it was WEST NEPTUNE, drillship, pretty good distance
15 offshore, south of the Mississippi River. And it was
16 morning, and we're unloading cargo, a full load of deck
17 cargo, tall Conex boxes, if I recall correctly. They were
18 grocery boxes, maybe six foot square and eight-to-ten foot
19 tall. We were alongside the drillship, close proximity on
20 DP, and the ship was as well, on DP. The -- there is
21 another rigger with, me and I remember the face, but not
22 the name -- Bruce.

23 Q Bruce Bolt.

24 A Bruce. It was Bruce, is his name.

25 The weather was not that great, not that

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1 of the Conex boxes. I believe they were four-point slings,
2 four-point harness -- four, two -- I believe there was four
3 harness. And we connect the hook on the stinger to the
4 D-ring, and that's how they lift it, you know, after we had
5 the tag lines on. Sometimes we connected them, put the tag
6 lines, depending on the situation.

7 And as I was hooking the D-ring to the
8 hook, it was -- it was difficult to do that, because the
9 weight of the hook and the hook wasn't lowered far enough
10 and the D-ring had the slings pulling it down, so I had to
11 lift one while I'm trying to manhandle the other to connect
12 them -- and to do this as quick as possible to get out of
13 that tight position.

14 And as I was doing that, I felt a
15 tremendous weight come down and knock my hard hat off, and
16 it felt like it just crushed my left side. And I went into
17 a little bit of a shock, I think. The hook fell on my foot
18 and hurt like hell. The hard hat flew off towards the
19 stern, and then all of a sudden I'm surrounded by steel
20 cable and a headache ball, which isn't really a ball; it's
21 like a three-foot steel cylinder that's maybe ten inches or
22 a foot in diameter. It's several hundred pounds plus the
23 weight of all the cable, and I'm surrounded with it.

24 And the first thing that went through my
25 mind at that time is, the crane is coming with it, to get

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1 good; not that horrible, even. The visibility was fair,
2 being in the morning. Lester was on the stern controls in
3 the aft part of the wheelhouse. And we were doing deck
4 cargo operations, transferring cargo from our vessel to the
5 drillship.

6 We did a few -- we did a few lifts prior to
7 the incident, if I recall. There was a few lifts that were
8 done prior to that. And I guess we were about halfway
9 through cargo operations, and I was working in a position
10 at the time of the incident that was in-between the deck
11 cargo and the bulwarks, which is the side of the vessel. I
12 believe it was the portside. Really tight area.

13 There is a colored walkway that is painted
14 on the wooden deck that's supposed to be kept clear, so we
15 could move around the deck cargo, and also have a means of
16 escape if needs be, and also do the job necessary, to not
17 have to climb over cargo. And it was -- it was really
18 tight. It should have been about two feet, but I think it
19 was closer than that; it was really a tight spot. You
20 could hardly pass through it walking with your shoulders
21 out.

22 And Bruce was hooking up the tag lines, and
23 I had the D-ring, which is a -- it's pretty
24 self-explanatory. It's like a steel loop, approximately
25 eight, ten inches, that's connected to metal slings on top

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1 out of the way, something else is coming down. And I
2 stumbled to get my hard hat, and I started to make my way
3 back to the forward part of the deck, going towards the
4 wheelhouse, and I took maybe ten steps, and was nauseated
5 with pain. I was just trying not to vomit or pass out, my
6 shoulder was hurting so bad. And I laid down on the deck.

7 And I had radio coms with the crane
8 operator, and he said that -- he said that -- he said that
9 he's going to get a longer stinger, because that was
10 obviously too short. And I laid there and I asked Bruce to
11 get Jody. Jody is the third captain on that vessel. We
12 got along really well. And he was asleep. Jody was
13 asleep.

14 And at that point, I'm assuming Lester saw
15 me laying down on the deck and all the cable on the deck.
16 I'm assuming that, but I didn't want Lester to be in charge
17 of that situation, because Lester never had my best
18 interest at heart, and I was hurt. So I wanted another
19 captain to be there to check me out, you know.

20 And at that point, I got up and I made my
21 way onto the bridge, if I remember correctly, and Jody, the
22 third captain who was off duty, came upstairs and helped me
23 take off my shirt, and looked at my shoulder. Pretty
24 scarred up still. It didn't actually cut me; it crushed my
25 skin between the steel and my bones. I had two shirts on,

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1 and it didn't rip my shirt at all. So that's never
2 happened before.

3 But anyway, I asked Lester, you know, to
4 help me with a report, to write out an incident report,
5 because I was obviously hurt, and we had to stop
6 operations. And then we filled out our reports, and I went
7 off duty at that point.

8 Q Okay. All right. Let me -- are you done?

9 A I guess that's about the gist of it.

10 Q We'll have plenty more questions. I want to kind
11 of go through a lot of things that you've talked about.

12 The MAGGIE A was servicing a drillship
13 called the WEST NEPTUNE?

14 A I believe that was the name of the drillship,
15 yes.

16 Q Mr. Flora, do you recall on the day that your
17 incident happened, were you working 14 to 14, or 28 and 14,
18 or something else?

19 A Either -- one of those. Either one of those.

20 Q Do you recall how many days you were into your
21 hitch when the incident happened?

22 A Okay. It was 28-day hitch, and it was early in
23 that hitch. Maybe the first week.

24 Q Okay. All right. Had the MAGGIE A with your
25 crew been servicing this drillship on a daily basis, or

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1 A Well, I haven't given it much thought as far as
2 those details of the day, as far as all the days to
3 remember, those aren't the details I recollect. I
4 recollect the painful ones. (LAUGHING.)

5 Q Fair enough. Exactly.

6 If there were passengers that were
7 offloaded or unloaded onto the MAGGIE A, that's the kind of
8 thing that would be documented in the logs, right?

9 A Should be.

10 Q Should be.

11 MR. SHEPPARD: Speculation.

12 Q (CONTINUED, BY MR. MECHE:) So you guys had been
13 servicing the WEST NEPTUNE in, I believe, it was Green
14 Canyon 390. Does that ring a bell?

15 A It does ring a bell.

16 Q My understanding from the documents is this
17 happened somewhere around 7 o'clock in the morning. Is
18 that pretty accurate?

19 A I reckon so.

20 Q In May, would you agree with me, that it's --
21 full daylight is 7 o'clock in the morning?

22 A Yeah, good visibility.

23 Q You were talking about the cargo. You guys were
24 unloading from the MAGGIE A to go to the drillship?

25 A Yes.

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1 multiple times a day, or what was going on?

2 A It was pretty regular.

3 Q Okay.

4 A Like every other day, every couple of days.

5 Q And were you bringing out both passengers and
6 cargo?

7 A Not at that particular trip, but we have.

8 Q Okay. So on the hitch that you were working
9 where you were injured, were there any passengers aboard
10 the MAGGIE A?

11 A You know, I don't recall, but it's possible.
12 Because we were doing groceries. Sometimes they --

13 Q Do grocery on a crew-change day?

14 A Yeah, because they want fresh groceries for a
15 fresh crew. It's possible but --

16 Q Okay.

17 A -- really, I don't remember.

18 Q Do you remember any personnel basket transfers
19 that were -- of personnel that were done either before or
20 after your incident while at the WEST NEPTUNE on May 25th?

21 A It's possible.

22 MR. SHEPPARD: Object to vague.

23 A (CONTINUED:) It's possible. It's possible.

24 Q (BY MR. MECHE:) You just don't recall one way or
25 another?

[Page 112]

1 Q Okay. Were you also back-loading anything?

2 A That's -- it's pretty normal to do that, to
3 back-load.

4 Q And that would have happened after your incident,
5 though, right?

6 A Yes.

7 Q It only make sense that you're going to offload
8 cargo first?

9 A Yeah, usually, depending on the type of cargo,
10 depending on the ops, the priorities of that particular
11 job.

12 Q I think you testified, and correct me if I'm
13 wrong, sir, that your characterization of the back deck of
14 the MAGGIE, that it had a full load of cargo?

15 A At the time when the incident happened, it was
16 not a fully loaded.

17 Q Okay.

18 A About a half deck, maybe less.

19 Q Okay. Half deck. All right.

20 A But if I remember correctly, we unloaded some
21 prior to that.

22 Q Yeah, you -- you testified that there were a
23 number of loads -- you didn't quantify. If you had to give
24 us your best guess on how many transfers of cargo had taken
25 place before your accident --

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1 A Uh-huh.
2 Q -- what number would you give us?
3 A Again, my recollection is pretty much limited to
4 the moments surrounding the incident.
5 Q Okay.
6 A Because I've done -- I've done so many deck
7 cargo --
8 Q Since then --
9 A -- before, and a few after. But I remember
10 vaguely how it was at the time of the accident.
11 Q Okay. So again, your memory is there was about
12 half deck worth of cargo at the time of the incident.
13 MR. SHEPPARD: Vague, form; asked and
14 answered.
15 A I believe so.
16 Q (BY MR. MECHE:) Do you have a recollection, sir,
17 that when the MAGGIE A left whatever dock it left in order
18 to go out to the WEST NEPTUNE was the MAGGIE A -- did it
19 have a full load, a half load, or something in-between?
20 A When we left the dock?
21 Q Yes, sir.
22 A Well, I would guess we left the dock at dark. It
23 would have been dark when we left the dark. Maybe
24 three-quarter of a deck. But this is -- this is just a
25 guess.

[Page 114]

1 Q Okay. Fair enough. And you described the -- you
2 talked about grocery boxes and Conexes and I want to make
3 sure that we kind of define that for the jury. when I
4 think of a Conex, I think of those --
5 A 18-wheeler boxes --
6 Q -- the 18-wheeler boxes?
7 A -- coming off the ships?
8 Q Exactly. That's what I would call a Conex.
9 A Yes.
10 Q Is that the same thing you're talking about?
11 A That's what they are, and they come in different
12 sizes. Not all of them are 40 foot or 20 foot or 10 foot.
13 Q Okay.
14 A Different sizes. Sometimes they're a bit taller
15 or shorter or wider.
16 Q Okay. You were describing the ones on the back
17 deck of the MAGGIE A as six-foot-by-six-foot-by-eight to
18 ten foot tall?
19 A Yeah, in that -- in that general...
20 Q Okay. I mean, were they all generally that size
21 or did you have the some 20-foot Conex boxes?
22 A Not at that time, not I don't recall.
23 Q Okay.
24 A I believe we had, maybe, six on deck at the time.
25 Q Okay.

[Page 115]

1 A Maybe.
2 Q That's helpful.
3 A Yeah. Maybe eight at the time of the incident.
4 Q Okay. So there were six to eight of these
5 Conexes; your best estimate --
6 A Uh-huh.
7 Q -- six by six by eight to ten feet tall?
8 A Something like that.
9 Q All right. And you guys were offloading those to
10 the drillship at the time that the incident occurred?
11 A That's correct.
12 Q Now, as I understand your testimony, did these
13 conexes, were they already pre-slung?
14 A Yes.
15 Q Okay. So on the four corners of the top of the
16 box you have a cable from each corner going to the D-ring?
17 A Yeah, shackled in to the Conex box.
18 Q Okay. And so the thought is, the box is already
19 pre-slung --
20 A Yes.
21 Q -- and someone in your position would take the
22 crane's hook --
23 A Uh-huh.
24 Q -- and hook it up to the D-ring, and then the
25 transfer can take place?

[Page 116]

1 A Yes.
2 Q Okay. Describe for me what process you used on
3 the date of this incident in order to hook up the D-ring to
4 the crane's hook.
5 A Okay. In my left hand, I had the D-ring, and in
6 the right I had the hook. The hook was a little bit high,
7 and the D-ring was a little bit low. And I'm trying to
8 make them meet. So I was forcing my left arm up, and my
9 right arm over, and trying to hook it. But I was lifting
10 at the time when I got hit. I was forcing my arm up under
11 strain to try to connect it to the stinger.
12 Q Okay. As I appreciate your testimony, Mr. Flora,
13 -- okay. The cables, the rigging that are on top of these
14 Conex boxes --
15 A Uh-huh.
16 Q -- you can't stretch that, can you?
17 A No.
18 Q All right.
19 A No.
20 Q What you can do is, is if you need more line from
21 the crane, that's where you would get extra rope so to
22 speak, right?
23 A Correct. But at that -- in those circumstances,
24 the D-ring was lower than the hook. So I could lift the
25 D-ring.

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1 Q Okay.

2 A Okay? I wasn't pulling down and stretching the

3 cable. I was lifting the excess from the sling to meet

4 where the hook was.

5 Q Okay.

6 A And the hook wasn't coming down anymore.

7 Q And that's -- I guess, that's what I'm driving

8 at. You're able to lift the D-ring as much as physically

9 is allowed with the cable.

10 A Yes.

11 Q But -- and again, correct me if I'm wrong -- as I

12 understood under your testimony, you didn't have enough

13 slack from the cable coming down from the crane that had

14 the hook. You were trying to put them together and you

15 needed more slack?

16 A I -- I -- yes.

17 Q Okay.

18 A I needed more slack.

19 Q Did I understand you correctly, that you were on

20 radio communication with the crane operator?

21 A Yes.

22 Q Okay. And I think I wrote this down, there was

23 some communication that you had with the -- with the crane

24 operator, where he said something to the effect that he

25 needed to put on a longer stinger?

[Page 118]

1 A That's correct.

2 Q Okay. Can you explain to the court and jury what

3 a stinger is, and whether they can be swapped out. I'm

4 assuming from his --

5 A Yes. Okay. So you have a headache ball, that's

6 at the end of a cable working with cranes, that have a lot

7 of cable. A headache ball is there to stabilize the cable.

8 Q Okay.

9 A You don't want to work around the headache ball.

10 It's several hundred pounds. It -- you're not going to

11 push it around; it's going to push you around or hurt you.

12 So a stinger hooks onto a hook that's underneath the

13 headache ball. It does not have a headache ball on it.

14 It's just a single strand of cable with a hook on it that

15 allows you to easily maneuver, rather than working with the

16 headache ball, which you cannot.

17 Q So if we were fishing, it's that piece of line

18 underneath the lead weight?

19 A There you go.

20 Q Okay. And so underneath the headache ball, there

21 is a length of cable --

22 A Yes.

23 Q -- with a hook that's commonly called a stinger?

24 A That's correct.

25 Q And from what I'm understanding is the situation

[Page 119]

1 that you were in when you got hurt, the crane operator

2 needed to put a longer stinger underneath the headache

3 ball?

4 A Yeah, that was -- that, obviously, was his

5 assumption and mine too after the incident.

6 Q Because again you described pretty clearly how,

7 in manipulating the D-ring, you needed a little more slack?

8 A Yeah. I needed the hook to come down further.

9 Q Correct.

10 A Or be positioned closer to the D-ring. I needed

11 the -- I needed it to be positioned closer to the D-ring.

12 Q Being in radio communication, tell the court and

13 jury, did you communicate to the crane operator, hey, can

14 you give me more slack? And he responded back saying, I

15 need to put a bigger stinger, a longer stinger? Or how did

16 that play out, specifically?

17 A Well, specifically, I had the hook in one hand

18 and a D-ring in another.

19 Q Okay.

20 A And they were close together. As I was

21 attempting -- and this didn't happen in a couple of

22 minutes, it happened in a couple of seconds -- as I was

23 attempting to hook it up, I noticed that the hook wasn't

24 moving at all. So I tried to bringing the cable up.

25 Q Okay.

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1 A The D-ring to hook it up. And at that moment

2 that's when everything went haywire.

3 Q Okay. What I'm trying to understand is, what

4 prompted the crane operator to tell you, I need to put a

5 longer stinger on? Did y'all have a conversation after, or

6 do you know whether he could perceive what was happening

7 from --

8 A Well, it's my understanding that these

9 knuckleboom cranes --

10 COURT REPORTER: These what?

11 THE DEPONENT: Knuckleboom cranes.

12 A (CONTINUED:) -- on the drillships have cameras

13 where the cable comes down from the top, so they could see

14 -- they could see birds-eye directly.

15 Q (BY MR. MECHE:) Okay.

16 A Not just from their controls, but also from there

17 -- I believe that's what they have.

18 Q And we're going to talk to the crane operator.

19 But based on your testimony and what you understood in your

20 conversation with that crane operator is that he felt he

21 needed to put a longer stinger at the end of his headache

22 ball in order to complete this job?

23 A Yes.

24 MR. SHEPPARD: Objection, asked and

25 answered.

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1 A (CONTINUED:) Just prior to --

2 MR. SHEPPARD: Speculation.

3 A (CONTINUED:) -- just prior to making that
4 attempt, I noticed that the headache ball, it seemed a lot
5 closer than usual. It just seemed closer to the deck than
6 usual. Not, you know, about to hit my head, but a lot
7 closer than usual. And in that position of the vessel, the
8 bulwarks rise up for some engine ventilation. There's
9 maybe 15, 20 feet to where the bulwarks go from maybe five
10 and a half feet to seven feet, or in that area, seven and a
11 half feet. And I noticed that the headache ball was --
12 every now then, was tapping that, would tap that, and that
13 -- it didn't seem right to me.

14 Q Okay. And it -- it would seem to make sense if
15 the crane operator was correct --

16 A Uh-huh.

17 Q -- that he needed a longer stinger, that seems to
18 make sense with what you're saying. Your perception was
19 that headache ball is a little closer to me than it usually
20 is --

21 A Yeah.

22 Q -- as if he has a shorter stinger than he
23 normally would have.

24 A Yes. And if I remember correctly, they were
25 doing dead cargo ops on the WEST NEPTUNE prior to us

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1 A Yes.

2 Q Whereas, what you're telling us is that your
3 understanding is that the WEST NEPTUNE was doing their own
4 deck cargo operations, and with crane on their own
5 vessel --

6 A Yes.

7 Q -- it would make sense for them to have the
8 shorter stinger?

9 A Yes.

10 Q All right.

11 A Yes.

12 Q All right. Let me ask you about -- I want to
13 make sure I understand your testimony about the weather and
14 sea state.

15 A Okay.

16 Q You said it was not great, not good, but not
17 horrible.

18 A Yes.

19 Q And the visibility was fair.

20 A Uh-huh.

21 Q You're not taking a position in this lawsuit, are
22 you, Captain Flora, that operating, doing cargo operations
23 in the sea state that existed at the time of your incident
24 was wrong because of the size of the waves?

25 A I say it was -- it was borderline. It was

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1 showing up. So they have a tighter area to work in.
2 They're not 200 feet above a deck. They're eye level with
3 the deck, they need to have a shorter stinger in order to
4 do their on deck operations --

5 Q All right.

6 A -- for the most part.

7 Q Just to make sure that we're clear for the
8 court and jury when they watch this, when you say the
9 WEST NEPTUNE, your understanding was that they were doing
10 deck operations. They were moving thing, cargo, on their
11 own deck using --

12 A Yes.

13 Q -- using their own crane?

14 A Yes.

15 Q In your situation with your accident, you've got
16 a crane that's about how high up from the MISS MAGGIE A?

17 A Oh, goodness. High?

18 Q A hundred feet?

19 A Yeah.

20 Q Okay. So you've got roughly a hundred foot
21 distance between the crane on the WEST NEPTUNE and the deck
22 of the MAGGIE A, and it would make sense to have a long
23 stinger?

24 A A longer stinger, yes.

25 Q A longer stinger?

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1 definitely something to take into consideration under the
2 circumstances.

3 Q Okay. But my question to you is: Do you believe
4 that cargo operations being conducted in the sea state that
5 existed at the time was safe or unsafe?

6 A Well, in combination with everything that
7 happened that day, the equipment that we were working with,
8 the lack of preparation, I'd say in that instance, it was
9 unsafe.

10 Q Okay. Because I want to make sure. I'm going to
11 tell the court and the jury that a man with your
12 experience, all the big boats you have been on in your
13 career -- you see where I'm going with this?

14 A Yes.

15 Q And I don't want to mischaracterize your
16 testimony?

17 A May I -- may I clarify my answer?

18 Q You can say whatever you want.

19 A Pretty much repeating what I just said. I've
20 worked in worse conditions than that, but with the right
21 equipment and different crew. This all makes a difference.
22 It's a team effort, and you have to have the right tools
23 for the job and the right people to do the job as well.

24 Q Okay.

25 A And sea states will vary with that. You have to

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1 know the capacity of what you're working with. You have to
2 know what you're working with, whether it's a five-foot
3 stinger or a 20-foot stinger. You have to know if the guy
4 that is supposed to be watching you is watching you, has
5 got the birds-eye view. You've have got to know that the
6 cargo was loaded in a specific way. You have to know these
7 things and take that into consideration with the weather.
8 It might be flat calm, and somebody could get crushed, or
9 it might be ten foot seas and no problem whatsoever,
10 depending on the equipment you're working with and the crew
11 you're working with.

12 Q Okay. Is it -- is it fair to say that your
13 opinion in that regard is something that you're evaluating
14 now in hindsight?

15 A Oh, absolutely. Hindsight is always 20-20.

16 Q Okay. Because, again, I don't want to
17 mischaracterize what you say, sir.

18 Let me ask it to you this way. When you
19 guys first arrived at the WEST NEPTUNE on the MAGGIE A,
20 when you first arrived there how much time elapsed before
21 this incident occurred?

22 A I don't recall. There -- there is guidelines for
23 approaching, on dynamic positioning, that you're supposed
24 to follow, and the average is 45 minutes from within a
25 500 meter zone, 45 minutes to an hour and a half to set up

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1 MR. SHEPPARD: Object, asked and answered.
2 A (CONTINUED:) -- for the seas that we were
3 having, it seemed like it was a little bit rough, you know.
4 And if I remember correct -- and again, when the vessel is
5 alongside another vessel, seas will build in-between the
6 two. And I could have been catching seas from the port
7 coming over the bulwarks.

8 Q I understand. Right now I'm just asking about
9 the position of the MAGGIE A, and if you're not sure, tell
10 us you're not sure.

11 MR. SHEPPARD: Objection, asked and
12 answered.

13 A I don't recall, specifically.

14 Q (BY MR. MECHE:) Okay. All right. What
15 equipment on the MAGGIE A, if we could go back in time or
16 maybe it's still recorded right now, what equipment can we
17 pull off of the MAGGIE A to determine that, exactly what
18 position it was in on a given day and time?

19 A The DP console.

20 Q Okay. And so you were telling us that the sea
21 state in and of itself was not unsafe for this job, but in
22 conjunction with other factors that you described, you felt
23 it was unsafe?

24 A In retrospect, I think it was a factor.

25 Q Okay. And in retrospect it was a factor, but am

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1 properly.

2 Now, to set up properly it -- in my
3 experience and education, you're supposed to put the bow,
4 if at all possible into the elements, the seas, the
5 current, the wind. As I recall, that's not what happened.
6 He set up with the stern at the seas, if I recall.

7 Q And are you sure about that, or is that just your
8 best guess?

9 A Well, I remember catching spray. I'm pretty sure
10 it was coming off the stern. I'm pretty sure.

11 Q And again, because you understand, sir, that
12 we're going to have -- we're going to have other
13 testimony --

14 A Uh-huh.

15 Q -- we're going to have other documents --

16 A Uh-huh.

17 Q -- and we're going to have weather data.

18 A Okay.

19 Q And again, I just want to be fair with you, if
20 you're telling the court and the jury that you know that
21 the vessel was stern to and should have been bow to --

22 A Uh-huh.

23 Q -- then tell us that. But if you're not sure, I
24 want to know that you're not sure.

25 A Well --

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1 I to understand your testimony that prospectively, when you
2 were out there arriving at the WEST NEPTUNE, getting ready
3 to do this job with every condition that existed in the
4 weather and every condition that existed with the two
5 vessels, did you feel like this job was unsafe at the
6 get-go?

7 A No.

8 Q You were testifying as to the placement of the
9 cargo, which you said about a half deck worth of cargo and
10 you were describing for the court and jury the pathway
11 between the bulwarks and where the cargo is actually
12 placed. You referenced two feet. Is that what you would
13 generally want, or is that what existed at the time of your
14 accident?

15 A It was approximately that.

16 Q Okay.

17 A Being that it was a tall box, and the D-ring was
18 in-between that and the bulwarks, it needed to be more. It
19 needed to be more space for that D-ring to be there.

20 Q Okay. That brings me to -- something I wanted to
21 talk to you about. These Conex boxes that are pre-slung,
22 is this a situation where the D-ring is on top of the box
23 waiting for you to attach it, or is it hung over the side
24 so to speak?

25 A Being that the box is so tall, it would be

[32] (Pages 125 to 128)

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1 hanging over the side.

2 Q Okay. So you were standing next -- on the side
3 of a Conex box trying to hook up the D-ring to the hook on
4 the stinger, and you've already described that.

5 A Yes.

6 Q Take me back to that moment where you felt the
7 hook hitting you on the shoulder.

8 My question to you, Mr. Flora, is: Do you
9 know what happened in terms of -- was there additional
10 slack let out, or were you in the process of judging the
11 movement of the waves in terms of how you were hooking up,
12 or how did that play out?

13 MR. SHEPPARD: Objection to the
14 mischaracterization.

15 A When the headache -- headache ball hit me, it was
16 followed by yards of cable.

17 Q (BY MR. MECHE:) Okay.

18 A Yards.

19 Q What does that tell you?

20 A That it was slacked way, way too much, or the
21 crane is coming down.

22 Q Okay.

23 A It wasn't gradual. It was instant.

24 Q The amount of cable that came down with the
25 headache ball can't be explained by the length of a wave is

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1 Q Did you have time to get out of the way?

2 A No.

3 Q Did you have an escape route?

4 A Did I have an escape route? I didn't know which
5 way to go. But yes. Yeah.

6 Q You did?

7 A Yeah.

8 Q But quite frankly, you didn't even have time to
9 escape is what you're telling me.

10 A No.

11 Q You had the route, just not enough time to use
12 it?

13 A Yes.

14 Q Okay. You weren't at a pinch point?

15 A Yes, I was. I was in a pinch point. If that
16 lift lifted while I was between the two, I would be in bad
17 danger.

18 Q Okay. But -- meaning if you had more time, you
19 would have had an avenue to get out of the way?

20 A Yes.

21 Q Okay. Because this happened so fast, you
22 couldn't react to get out of the way?

23 A No.

24 Q True?

25 A I didn't have the opportunity.

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1 what you're telling me; there was a lot more cable.

2 A Oh. Very much so.

3 Q Okay. So -- again, I don't want to put words in
4 your mouth.

5 A Yeah.

6 Q But am I to understand that to mean for whatever
7 reason a whole bunch of cable had been let out of the
8 crane?

9 A Yes.

10 Q Okay. Is there anything that you perceived
11 before being struck by the headache ball that could explain
12 what might have happened?

13 A No.

14 Q I mean, did you hear something? Did you see
15 something? Did you feel something else before the impact
16 with the headache ball?

17 A No. I just had an uneasy feeling when I saw the
18 headache ball was closer than usual. It just didn't seem
19 like standard operating procedures.

20 Q Okay. Didn't that whole thing happen in a split
21 second?

22 A When the --

23 Q The impact with the headache ball and the
24 spooling of all of the extra cable?

25 A (SNAPPING FINGERS.) Like that.

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1 Q It happened so fast, the captain couldn't have
2 moved the boat out of the way in time, could he?

3 A No.

4 Q Am I correct?

5 A Well, if he was watching it. If he could see
6 what was happening, he could.

7 Q Okay.

8 A He could make a comment because he was supposed
9 to be the eyes between the cargo, me, and the crane
10 operator. This works as a triangle. This is a team
11 effort, and when one of those elements are out of it, it's
12 dangerous.

13 Q I understand. I understand what you're saying
14 about the team effort.

15 A Yes.

16 Q But here's what I'm driving at. Are you telling
17 the court and the jury that you, while you're standing
18 there on your feet, you don't have a split second to get
19 out of the way before the headache ball hits you and the
20 spooling of the cable happens, but the captain could have
21 maneuvered the boat out of the way?

22 A Well --

23 MR. SHEPPARD: Objection, asked and
24 answered.

25 Q (BY MR. MECHE:) in that split second?

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MR. SHEPPARD: Asked and answered.

A It shouldn't have gotten to that point. It shouldn't -- the captain should be seeing -- and I don't see how this could happen any other way, than that headache ball getting hung up on the bulwarks, and the crane operator continually spool out the cable, the captain not seeing it happen.

Q (BY MR. MECHE:) Okay.

A I don't see any other way that's possible.

Q I understand you can't figure out a way.

A Yeah.

Q But my question is this: Did you actually see the headache ball hang up on another piece of equipment, or is that just what you think happened?

A I recall it touching the headache -- the headache rack.

Q You still didn't answer my question, though. I want to know, because I want to be able to tell the jury this.

A Okay.

Q Are you telling the jury that you didn't have a split second to move out of the way, but that the captain could have moved the boat in that same amount of time?

MR. SHEPPARD: Objection, asked and answered.

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Q All right. When the headache ball hit you, you said it hit you on the hard hat. What I'm trying to understand is, did that piece of equipment impact your head as opposed to just the hat?

A Oh, it was what we call offshore an allision, not a collision.

Q Okay.

A It struck the brim of my hard hat.

Q Okay.

A And knocked it off as it was going straight through my shoulder.

Q All right. When you presented to the first doctor you saw, did you have any cuts or bruises on your head?

A Not that I recall.

Q All right. Did you have cuts on your shoulder?

A Yes.

Q Bleeding?

A Yes.

Q Okay. Bruises?

A Yes.

Q All right. When you were impacted by the headache ball, sir, what happened to the rest of your body? Did you not fall, or can you explain that to the jury?

A The headache ball knocked my hard hat off and

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A It shouldn't have gotten to that point.

Q (BY MR. MECHE:) That's not my question.

I understand your testimony, it shouldn't have gotten to that point, but we can talk to the jury about all the things Captain Lester did wrong --

A The standard operating procedure of a situation like that is for the person supposed to be watching that say, hey, lift your cable, my guy is underneath that. This isn't right.

This -- that's the JSA that we filled out prior to that, he's supposed to be in visual and audio communications. He's supposed to see what's going on. That's his job.

Q I understand all of that. But still, that's not my question. You have got all of that on the record.

My question is simply this: If you didn't have time in that split second, are you telling the jury that he did?

MR. SHEPPARD: Objection, asked and answered.

A It's impossible to avoid that when it's falling. It's impossible. If you're underneath it, and it's falling no one could avoid it.

Q (BY MR. MECHE:) That's what I'm driving at.

A Yeah, that's correct.

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continued down going through my shoulder and to the deck. Boom. Loud. Cable falling. Instant. The hook, when that was happening, the hook was forced downward out of my hand and onto my right foot.

Q Okay. And if I understood your earlier testimony, other than the initial appointment that you had where these things were evaluated, you haven't had any treatment to your right foot?

A That's correct.

Q All right. So based on what you just described, you didn't fall to the deck and get laid out for -- unconscious for any period of time, did you?

A No, I was not unconscious.

Q Do you have a recollection of what happened to the headache ball, the hook, and all the cable that was down with you after your incident occurred? I mean, did it get slacked up, or do you have a --

A I went to pick up my hard hat, which was thrown towards the stern, maybe 10 or 15 feet away. And as I was walking towards that, I was looking up to see if there was anything else coming down, and all I could see is all of this on the deck. And after that, shock started setting in and really I walked -- I believe I walked past that mess that was still on the deck. I walked between the two, if I recall properly, and then I went in the center of the back

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1 deck and laid down.

2 Q Did Captain James communicate with you at all
3 after this happened, and say, hey, Mark, what's going on?

4 A No, not that I recall.

5 Q You don't recall any communication?

6 A Not with James.

7 Q Was he on radio communication along with you and
8 the crane operator at the time?

9 A I hope so.

10 Q Okay. You don't know?

11 A I don't know.

12 Q All right.

13 A Yeah, as I mentioned earlier he had an aversion
14 for using the radio and communications with me on the deck.

15 Q Okay. Did you have any additional communication
16 with the crane operator after the incident occurred?

17 A Yes.

18 Q Okay. What communication did you have with the
19 crane operator? Tell us about that.

20 A When I was laying down on the deck, and this was
21 maybe a minute or two after the incident, I said -- I said
22 -- he said -- I believe, he spoke first -- that he's going
23 to put a longer stinger on the headache ball. And at that
24 point, I just wanted to go lay down inside, and, well, see
25 Jody first and have him check me out, and do whatever

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1 a particular side that it should be on so that you can
2 position yourself differently when you're hooking up?

3 A Absolutely.

4 Q Okay. Where was the D-ring positioned with
5 respect to the boat -- you know, starboard, port, bow,
6 stern?

7 A It was facing the port beam.

8 Q Okay. So it was on the port side hanging over
9 the Conex on the port side?

10 A That's correct.

11 Q And where -- in your opinion, where was it
12 supposed to be hung?

13 A Forward facing towards the aft part of the
14 wheelhouse. It should have been facing forward, facing
15 towards the bow, not towards the port.

16 Q All right. You mentioned that when these
17 operations take place, obviously, there's a certain
18 distance that the drillship and the MAGGIE A maintain
19 themselves --

20 A Uh-huh.

21 Q -- and this particular vessel had DP?

22 A Yes.

23 Q Was there ever any collision or bumping between
24 the two vessels during this process?

25 A Not that I recall.

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1 paperwork we needed to do. And I think I told the crane
2 operator that I'm okay.

3 Q Okay.

4 A I think I said that to him.

5 Q When you testified earlier that in looking at
6 this in hindsight as a whole, you said if you have the
7 right equipment. You're talking about the stinger?

8 A That's -- yes.

9 Q Is there any other piece of equipment that you
10 think could have been out there or should have been out
11 there that might have prevented this?

12 A Oh. The proper use of the equipment.

13 Q Okay.

14 A Yeah.

15 Q What proper use of which pieces?

16 A Like the D-ring, for example. It should have
17 been in a different position. It should have been facing
18 the aft part of the wheelhouse to where I could be in sight
19 of the captain while I'm -- while I'm hooking up.

20 Q And make sure I understand that, we talked about
21 earlier how these conexes are pre-slung from the corners.

22 A Yes.

23 Q You've got a D-ring hanging over the side.

24 A Yes.

25 Q Am I to understand what you're saying is there is

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1 Q Okay.

2 A That's pretty rare.

3 Q I would think so with DP, but I had to ask the
4 question.

5 A Yeah. Sure. It happens, but it's --

6 Q You don't have any complaint, other than you
7 talked about your questions about exactly how the boat was
8 positioned, but with respect to the distance between the
9 drillship and the MAGGIE A, do you have any complaint about
10 that?

11 A Well, I mean in retrospect, if the vessels -- the
12 drillship is several hundred feet long, 800, 900 feet long,
13 something like that. MAGGIE A is 200 feet long. That
14 draft has got to be 30, 40 feet, at least, for the
15 drillship. Okay. In those conditions, it wouldn't have
16 taken very long at all to change a degree or two or three
17 on the DP, on their vessel, to give us more of a leap, give
18 us more of a break from the seas, from the wind. Make it
19 less of a factor.

20 Q So you're saying that, in your opinion, if the
21 drillship would have moved its position somewhat, it would
22 have created a safer place for the MAGGIE A?

23 A It would have been more finer tuned.

24 Q Is that something that's actually done out there?

25 A Oh, yes.

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1 Q Going back to the cargo operations before your
2 incident took place, and including when your incident
3 happened, can you give us an idea of how the crane line
4 coming down from the crane to the MAGGIE A met up with the
5 cargo or the deck? Meaning, was it perpendicular or was it
6 something else? Do you understand my question?

7 A Not entirely.

8 Q Okay. If this piece of paper here is the deck of
9 the boat --

10 A Uh-huh.

11 Q -- you know, I'm trying to understand if the
12 crane line was coming down plumb --

13 A It has to.

14 Q Okay.

15 A There's no other way.

16 Q Well -- and I have to ask the question.

17 A Yeah, yeah, yeah.

18 Q You're telling us that it was perpendicular with
19 the deck of the vessel.

20 A Yes. That's the purpose of the headache ball is
21 to keep the cable perpendicular with the end of the crane.

22 Q Okay.

23 A That's the purpose of it.

24 Q What I'm trying to understand, you're not telling
25 the court and the jury that the MAGGIE A was drifting off

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1 A Bulwarks.

2 Q Okay.

3 A The upper bulwarks, not the lower.

4 Q Correct. You described how they reach up in that
5 area.

6 A That's right.

7 Q In any of the other cargo lifts that had taken
8 place before your incident, did those take place without
9 any injuries or without any incidents?

10 A Without any, yes.

11 Q Where was the other deckhand, Bruce Bolt, at the
12 moment your incident occurred? I know you testified he
13 initially hooked up the tag lines.

14 A Yeah. He was to my left, and then, he come
15 around before I grabbed to connect the two. He come
16 around, and I guess maybe he put a tag line on the forward
17 part of the box, and still had a tag line to put on the
18 aft. Because he come this side, and then he was just out
19 of sight, just around the corner of that small box when I
20 was attempting to make the connection.

21 Q Okay.

22 A If I remember right, he was on the stern part of
23 that Conex box.

24 Q Which way were you facing when your incident
25 occurred? I know you said you were on the port aft portion

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1 while this cable was still on the boat where we now have a
2 line at an angle?

3 A Oh. I understand now, that -- I don't believe
4 that was the case there.

5 Q Okay.

6 A It's happened, but not at that time, I don't
7 think.

8 Q The captain wasn't chasing the crane line?

9 A No, no. It's what we used to do in the old days.

10 Q Would you agree with me with your experience, all
11 of the experience we've already talked about, that the
12 operations that were being conducted on the day of your
13 incident was not anything new to you?

14 A No, not really.

15 Q You've probably done this hundreds of times,
16 maybe more.

17 A Under more dangerous conditions.

18 Q Yeah. And I think you testified earlier, I mean,
19 sometimes accidents can happen in water that's as smooth as
20 a bathtub?

21 A At the dock.

22 Q Earlier, when you testified that you -- I think
23 you said that you heard something that led you to believe
24 that the headache ball had come into contact -- was it with
25 a Conex or was it with the bulwarks?

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1 of the deck.

2 A Yeah, about -- around mid ship.

3 Q Okay.

4 A But on the port side, and I was facing towards
5 the starboard side.

6 Q All right.

7 A With the drillship to my back and the bulwarks to
8 my back.

9 Q All right. Now, because the piece of cargo had
10 not yet been lifted, there's nothing for Bruce Bolt to be
11 doing with respect to holding a tag line, because it's not
12 time yet, correct?

13 A Well, yeah, we're not going to wait until it's
14 lifted to grab onto the tag line. We're going to have it
15 in our hand and be prepared, since there was a little bit
16 of a sea, if we need to help stabilize it, if we're able
17 to, to do so to keep it from hitting the other cargo or the
18 bulwarks or each other.

19 Q Yeah. That's why he would want to man the tag
20 line, but that had not yet occurred. True?

21 A No, I don't think it occurred.

22 Q Okay. Are you making any complaints about what
23 Bruce Bolt did or didn't do on this job?

24 A No.

25 Q Okay.

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1 A No.

2 Q Fair enough.

3 A I -- from what I remember, I enjoyed working with
4 Bruce. He was very capable and fast and funny and just a
5 joy to work with.

6 Q When was the first time after your incident
7 occurred that you and Captain Lester talked about it?

8 A From the wheelhouse.

9 Q Okay. And is that the point where you described
10 earlier you all were filling out the paperwork?

11 A Yes. And I asked him what did he see, what
12 happened. And he said he didn't see, he was looking at the
13 DP screen.

14 Q Okay.

15 A And in retrospect, I don't see how he could see
16 me anyway because of where the cargo was positioned, where
17 the D-ring was positioned, where he was positioned, where I
18 was positioned; I think it would be impossible for him to
19 see me, even if he was trying to see me.

20 Q Okay. But he told you he was -- his eyes were
21 focused on the DP screen at the specific moment that you
22 got hit?

23 A That's correct.

24 Q Did Captain Lester James ever tell you, well,
25 Mark, I couldn't see you anyway?

1 Q Did you document anywhere in your own witness
2 statement, in an email, a text, a phone call, or anything,
3 that the information Captain Lester James put into the
4 incident report was inaccurate?

5 A I didn't say anything about Lester. I just put
6 down what my recollection of the incident was, because I
7 was involved with it. (LAUGHING.)

8 Q I understand.

9 A You should have that.

10 Q I do, sir.

11 A Okay.

12 Q And we will go over it.

13 (OFF THE RECORD CHATTER.)

14 MR. MECHE: All right. I'm going to mark
15 as Exhibit 3 a copy of the three-page incident report,
16 along with the JSA, your handwritten statement, and the
17 statement of Bruce Bolt.

18 (EXHIBIT NUMBER 3 MARKED.)

19 Q (BY MR. MECHE:) And I'll hand that to you, sir.
20 Take a moment to look at it, please.

21 A Bruce or Lester?

22 Q I think it's Bruce. And your lawyer will hand it
23 to you here in a second.

24 A Okay. So description (READING AND MUMBLING TO
25 SELF)...

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1 A No.

2 Q And obviously, I understand the job that you guys
3 have. Periodically, looking at the DP screen is something
4 you have to do.

5 A No, that's true. That's true.

6 Q Who filled out the accident report in -- for this
7 incident?

8 A I asked him to.

9 Q Okay.

10 A I was in pain. (LAUGHING.)

11 Q Understood, but I've got to ask the question.

12 A And then, what he wrote down was -- it was
13 impossible for that to happen, what he wrote down. And I
14 said -- and that's when I asked him, well, what did you
15 see? Is this what you saw happened? And he says, no, I
16 couldn't see, but this is what I think happened.

17 Q Okay. And your testimony is Captain James told
18 you that?

19 A Yes. Yes.

20 Q Okay. And your testimony is what is written down
21 in the incident report that we have is inaccurate?

22 A In his, yes, in his incident report.

23 Q Okay.

24 A There wasn't any way that I was going to agree
25 with that nonsense, and -- totally inaccurate.

1 Okay. This is the one from Lester.

2 Oh. Bruce, I haven't seen this from Bruce.
3 Yeah. Okay.

4 Q All right. Let's take a look at the first page
5 of that exhibit. It's the report that was completed by
6 Captain Lester. It's a three-page report.

7 A Okay.

8 Q All right. The date and time of this incident,
9 is anything inaccurate about that?

10 A I don't believe so.

11 Q All right. The weather conditions at the time of
12 the incident, take a look at that and tell me if you
13 disagree with anything that is listed there?

14 A Six to sevens. The wind could have been a little
15 bit more, but that's close enough.

16 Q Okay. So -- so what's listed there in the
17 weather conditions you believe is close to what you
18 perceived at the time?

19 A Yeah.

20 Q Okay. You're not here saying that the waves were
21 eight to ten foot, or ten to twelve foot, or something like
22 that?

23 A No. No.

24 Q Take a look at the description of what
25 Captain Lester James put in the next paragraph, and tell me

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1 what you disagree with.

2 A Okay. I'm going to read this out loud.

3 While hooking to -- I don't know what this
4 is.

5 Q Cargo.

6 A Cargo, okay -- cargo, Mark had stinger in hand.
7 Okay. That's correct. And the boat went up on a wave, and
8 the headache ball hit Mark in the head, then shoulder, then
9 foot.

10 Q All right. Stop right there.

11 Is -- so far, is that accurate or not?

12 A Absolutely not.

13 Q Okay. Tell us what's inaccurate about it.

14 A Well, the stinger in hand part is accurate.

15 Q Okay.

16 A When I was hit by the headache ball, it didn't
17 hit me sideways or a gentle -- a gentle allision, like a
18 gradual wave. It was gravity. It was (SNAPPING FINGERS)
19 gravity. It was an upward movement of a vessel. It was a
20 downward movement instantly of a lot of steel. So there's
21 no possible way that a speed of a wave going up and down
22 would create that much force.

23 Q Your testimony is that when you got hit by the
24 headache ball, it was not a wave taking you up to get
25 hit --

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1 A To me it looks like rain, but it should be
2 bulwarks.

3 When wave caught on rain -- when wave --
4 made ball fall on Mark.

5 Q Same thing you just testified to, it was not the
6 wave that did it. It was the crane's hook and headache
7 ball and cable coming down faster, or fast?

8 A Yes.

9 Q Okay.

10 A Yes.

11 Q All right. Let's take a look at the rest of
12 page 1. Is there anything else -- anything else about this
13 report that you find is inaccurate?

14 A Well, I'm taking his word at this point that did
15 he not see it and was adjusting the DP screen. I don't
16 find him credible.

17 Q No, I understand, and I wouldn't --

18 A I don't -- I don't trust him.

19 Q Yeah. I get it. You've made that perfectly
20 clear.

21 A This is -- this is -- this is possibly false.

22 Q You understand that he's going to say the same
23 thing about your testimony; you get that, right?

24 A I wouldn't be surprised.

25 Q Okay. Take a look at the third page of that

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1 A Unh-uh.

2 Q -- it was the headache ball and the cables coming
3 down at the rapid movement that you described earlier?

4 A As fast as gravity could pull it down.

5 Q And you're sure about that?

6 A Yes.

7 Q All right. Okay. So your testimony is that
8 Captain Lester James got it wrong with respect to the wave.
9 Is there anything else up until that
10 sentence that you just read, anything else that you find is
11 inaccurate?

12 A (MUMBLING.)

13 COURT REPORTER: Be sure you speak up.

14 A (CONTINUED:) Okay. Let me read this out loud.

15 And the boat went up on a wave, and the
16 headache ball hit Mark in the head, then shoulder, then
17 foot.

18 The headache ball did not hit my foot. The
19 stinger hit my foot.

20 Q Okay. Anything else?

21 A The headache ball was caught on -- the headache
22 ball was caught on -- what's that word? -- raid [sic],
23 rail?

24 Q I'm going to assume it's meant to be rail, but I
25 could be wrong.

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1 report.

2 A (COMPLYING.)

3 Q Someone identified that area of the back deck
4 where you were standing when this occurred, and I don't
5 know who did it. Maybe you could shed some light on it.

6 Is that your handwriting or not?

7 A I don't think it's mine. I know I was shaken up,
8 but even shaken up it's not really that bad.

9 Q Is the location that's circled accurate or
10 inaccurate?

11 A I think it was a little bit more forward than
12 that. But this diagram is not accurate to the MAGGIE A.
13 It's general. It does not show the elevation of the
14 bulwarks.

15 Q Certainly. But in terms of just pure location,
16 where the incident occurred, can you take this ink pen and
17 draw a circle of where you were standing?

18 A Okay.

19 Q Because you testified mid ship, around mid ship.

20 A Yeah.

21 Q This is certainly not mid ship, and I want to be
22 able to tell the jury this is what Mark Flora says.

23 A (COMPLYING.) Yeah. Maybe a little bit more,
24 maybe a little bit more forward. Yeah.

25 Q Okay.

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1 A It's around here, I would say closer to mid ship.
2 Somewhere in there.

3 Q All right.

4 A Sorry about that.

5 Q That's all right.

6 Does your Exhibit 3 have a copy of your
7 handwritten witness statement?

8 A Of my statement? Yeah, it's in there.

9 Q All right. Take a look at it and refresh your
10 memory, sir. I have just a few questions about it.

11 A Okay.

12 MR. SHEPPARD: Could we -- it's about 2:30,
13 do you want to take a quick break so I can swap someone
14 out.

15 MR. MECHE: Right now?

16 MR. SHEPPARD: Yeah, if it's possible.

17 MR. MECHE: Sure. Absolutely.

18 MR. SHEPPARD: Okay.

19 VIDEOGRAPHER: Off the record at 2:30 p.m.

20 (OFF THE RECORD.)

21 VIDEOGRAPHER: Back on the record at 2:43.

22 Q (BY MR. MECHE:) Exhibit 3, we were going to talk
23 about the witness report that you filled out in your own
24 hand.

25 A Okay.

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1 Q Okay. You know, Mr. Flora, the only thing that I
2 see in this statement that's just a little different than
3 what we've already talked about --

4 A Uh-huh.

5 Q -- after reading this, do you have a better
6 recollection on where Bruce Bolt was? Because I think you
7 testified earlier your thought was that he was still
8 hooking up tag lines?

9 A Yeah.

10 Q But at least in your statement it says that he
11 was assisting you with the D-ring.

12 A Yeah. He quickly attached the tag lines and was
13 assisting me the D-rings. But we were about to tackle that
14 job together. And I'm not sure what happened there,
15 exactly why, but he went around the side, and I assume to
16 do another tag line.

17 Q Okay. So that's your last memory of Bruce Bolt
18 is --

19 A Yeah.

20 Q -- going around the side --

21 A Yeah, towards the aft.

22 Q And again, you have no complaints about what
23 Bruce Bolt did or didn't do. You're not telling the jury
24 that he was supposed to be helping you hook up to the
25 D-ring?

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1 Q Is that your signature and name on the bottom?

2 A It is.

3 Q Okay. Why don't you read for the record what you
4 stated?

5 A Okay. Bruce and I were working rigging a grocery
6 box on the back deck to offload. I had the hook and Bruce
7 was attaching the tag lines. He quickly attached the tag
8 lines and I was -- and was assisting me with the D-ring,
9 and the headache ball cylinder got caught on the upper
10 bulwark then free fell. It knocked my hard hat off, hit my
11 left shoulder, and the hook fell on my right foot just
12 forward my ankle. I stumbled a few feet to clear the area,
13 and rested on the deck for a few minutes.

14 And I left out a part where I read D-ring
15 and the headache ball. I put in an asterisk that the
16 stinger was five to eight foot.

17 Q The stinger on this job was only five to eight
18 feet long?

19 A Well, that's what I put on there. I didn't
20 measure it.

21 Q And certainly, I mean, you can estimate.

22 A Yeah.

23 Q I guess my question is, that estimate of five to
24 eight foot stinger, that comes from you?

25 A Uh-huh.

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1 A No. Bruce is an excellent deckhand, really good.

2 Q If you would have had a longer stinger, it's
3 something you probably could have hooked up a lot faster
4 than what happened?

5 A Well, I believe that --

6 MR. SHEPPARD: Object to speculation.

7 A (CONTINUED:) -- that a longer stinger would have
8 kept the headache ball off the bulwarks. And that way I
9 would be able to maneuver it some. But since it was hung
10 up, I wasn't able to maneuver it at all.

11 Q (BY MR. MECHE:) Okay. Remind me, sir, in
12 the -- I think you may have said possibly three or four
13 lifts took place before this one. You were involved in all
14 three of those lifts, correct?

15 A Right, yes.

16 Q Can you describe for the court and jury what
17 pieces of cargo transferred before this particular Conex
18 was hooked up to. Was it more conexes or was it something
19 else, or both?

20 A It could have been another Conex box. I really
21 don't remember. Some companies -- I don't recall if this
22 company does it or not, but some companies -- we did this
23 at Chouest. We would take a picture of the deck after it
24 being loaded.

25 Q Okay.

[39] (Pages 153 to 156)

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1 A At the dock. So maybe they have record of
2 exactly what was on it.
3 Q And we can certainly check on that?
4 A Yeah, yeah.
5 Q Do you know whether -- do you know whether the
6 MAGGIE A, whether they take pictures of cargo decks?
7 A I'm not certain.
8 Q Okay.
9 A I don't know if they do or not.
10 Q All right.
11 A There should definitely be a log of how many
12 lifts were on the water.
13 Q But -- but -- but regardless of what is logged
14 about the transfers that took place on the MAGGIE A on the
15 day of your incident --
16 A Uh-huh.
17 Q -- and the lifts that took place, however many
18 there were before your incident, you had an opportunity to
19 view everything that was happening and get those lifts done
20 safely before your incident occurred.
21 MR. SHEPPARD: Objection to vague.
22 A They were in different positions. It wasn't that
23 Conex box against there -- against the bulwarks. And the
24 other lifts went off without any problem.
25 Q (BY MR. MECHE:) Okay.

[Page 158]

1 A But one out of ten ain't good.
2 Q All right. I'm going to go ahead, sir, and pass
3 the witness to give some of the other lawyers an
4 opportunity to question you.
5 A Okay.
6 Q I may have a few more questions when it comes
7 back around.
8 A Okay.
9 MR. MECHE: Thank you very much for your
10 time, sir.
11 THE DEPONENT: Thank you.
12 (TIME: 2:49 P.M.)
13 MR. LEMOINE: I'm going to take that
14 opportunity because I may have to catch a flight, like --
15 (OFF THE RECORD CHATTER.)
16 E X A M I N A T I O N
17 BY MR. LEMOINE:
18 Q My name is Mike Lemoine. I represent LLOG, I
19 call them LOG.
20 A Okay.
21 Q You've sued us. You know that?
22 A I guess so. My lawyer knows more about that I
23 do.
24 Q Well -- but you don't have any information to
25 indicate that anybody with LLOG contributed to your

[Page 159]

1 accident?
2 A It depends on who was operating the crane.
3 Q Yeah. Okay. Good deal.
4 So I'm going to represent to you that LLOG
5 was the operator of the well.
6 A Okay.
7 Q And hired Seadrill to come with their
8 drillship --
9 A Uh-huh.
10 Q -- and likely, hired your company to bring
11 supplies. That's the role of my client.
12 A I see.
13 Q So you don't really know if they were operating
14 the crane or not. If they did, then yes, you have a
15 problem with LLOG, but if they didn't, you don't?
16 MR. SHEPPARD: Object to speculation.
17 A I don't --- no, I don't think so.
18 Q (BY MR. LEMOINE:) Okay
19 A I don't think so.
20 Q All right. Because you mentioned earlier that
21 the three people -- and let's count Bruce Bolt as -- you
22 and him as a team.
23 A Okay.
24 Q The three people that were involved in this
25 incident that could have contributed to the accident would

[Page 160]

1 have been the crane operator -- yes?
2 A Oh, yes.
3 Q Captain Lester James?
4 A Yes.
5 Q And you?
6 A Uh...
7 Q I'm not saying that you -- that you were at
8 fault. I'm just saying --
9 A Yeah.
10 Q -- those -- if somebody did something wrong on
11 this operation, it's one of those three people?
12 A And also, the people that were involved in
13 loading the cargo --
14 Q Okay.
15 A -- on the vessel itself.
16 Q All right. Did you --
17 A That was a factor.
18 Q That was a -- okay.
19 Let me ask you this, Mark.
20 A Yes, sir.
21 Q Did you -- were you -- do you know anything about
22 the MAGGIE A switching with the GLORIA A to make these runs
23 from Fourchon to the vessel?
24 A I don't really recall.
25 Q No problem. I'm just trying to go fast.

[40] (Pages 157 to 160)

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1 A Okay. That's fine. That's fine. The more that
2 we discuss this, the more my memory is coming up.

3 Q So -- and what we do for a living, we give these
4 legal questions, they call them interrogatories, and I
5 think I have yours right here. Plaintiff's response to
6 Gulf Logistics interrogatories, and then they're prepared
7 by the attorney.

8 A Okay.

9 Q Probably with you helping.
10 I want to read you something that they
11 wrote on your behalf regarding -- and the question
12 is: Mr. Flora, please tell the court and jury in as much
13 detail as you can today in your own words, not a legal
14 opinion, what happened at the accident or incident that you
15 alleged.

16 And then you go -- you mention that, about
17 the improperly, inadequately sized and improperly operated
18 stinger, and that maybe the cargo was improperly loaded.
19 But then you say this: The defendants -- which would
20 include LLOG --

21 A Okay.

22 Q -- had a pattern and practice of neglecting
23 safety issues.

24 Do you have any evidence that LLOG had a
25 pattern of neglecting safety issues?

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1 went offshore, and I'm almost certain it was the same
2 drillship that, at night, there was a lightening storm, and
3 it was popping off every second. It was like you were in a
4 discotheque. It was pop, pop, pop, pop, pop. And we had
5 four lifts to do that were steel, and we were working with
6 the crane, that's made of steel, with the cable that's made
7 of steel, in a lightning storm with nothing else for it to
8 strike.

9 Q I'm good with it. That's the incident?

10 A That's -- yeah. I'm the one that made the call
11 that this is unsafe.

12 Q Okay. All right.

13 A And at that time, the person at the other end of
14 the radio didn't have any objection to that. But for that
15 to come -- even though I am a licensed captain with lots of
16 experience and training, I'm operating as a deckhand at
17 that time.

18 Q Right.

19 A Now, I'm thinking that if I was in any type of
20 management position where I'm responsible for the health
21 and well-being of anybody else --

22 Q Yeah.

23 A -- besides my own, I'm going to be looking out
24 for them. And it was a no brainer that that was an all
25 stop situation.

[Page 162]

1 A That wasn't the first incident I had. And I
2 can't recall, specifically, if it was with that particular
3 drillship.

4 Q Okay. So let me just stop you. You're talking
5 -- when I say LLOG -- when you said defendants had a
6 pattern, you're talking about whoever was operating the
7 drillship?

8 A Well, unfortunately, it's -- it's -- it's
9 Gulf-wide. Everything just went downhill since the price
10 of oil went downhill, including paying more attention to
11 safety. Now, when you're on a tighter budget, you have
12 less time to do the same job, and less money to do it with
13 you're going to cut corners. And that's been happening
14 throughout the industry.

15 Q Well, let's talk about the Seadrill WEST NEPTUNE.

16 A Okay.

17 Q What evidence do you have that whoever was
18 responsible for operations on that drillship had a pattern
19 and practice of neglecting safety issues?

20 A I can think of only one incident, but I'm not one
21 hundred percent that it was that drillship. I think it
22 was.

23 Q Okay. Can you just briefly tell when it was?

24 A Oh. A lightening storm. But this was after the
25 incident, if I recall. This was several months after. We

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1 Q And that was after this accident?

2 A That was after.

3 Q All right. Let me continue.

4 Then you say on information, JSAs were
5 skipped by supervisors and superiors.

6 So can you tell me, before your accident,
7 were there any JSAs that were skipped by the drillship and
8 whoever was operating the drillship?

9 A I -- I do not recollect.

10 Q Okay. The vessel platform has a history of
11 safety violations. That's what's written here on your
12 behalf.

13 A Uh-huh.

14 Q Do you know of any history of safety violations
15 by the drillship and those that were operating it?

16 A I -- no.

17 Q Okay. Do you -- very briefly, tell me --

18 A Yes, sir.

19 Q -- what was it about this lift -- strike that.

20 What was it about the two prior lifts that
21 went off without a hitch that allowed those lifts to be
22 done safely but not this one? What was done differently?

23 A Well, every lift is in a different position of
24 the vessel.

25 Q Yes, sir.

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1 A The D-rings are not put in a uniform position --

2 Q Yes, sir.

3 A -- whether it's facing the aft or port or
4 starboard or starboard. So there's different factors
5 there. There might have been different dimensions -- not
6 as tall. Something you could see over. Not eight foot or
7 ten foot tall.

8 That all -- that changes the dynamics of
9 the job, all those little details. That's what adds up to
10 either a successful job or an unsuccessful job.

11 Q Right. So did you say that when you were -- when
12 you were on the vessel, when it was loaded -- do you recall
13 it being loaded? You don't, right?

14 A No. No.

15 Q Okay. You don't?

16 A In thinking of -- that it happened, we unloaded
17 in the morning. It was quite possibly loaded prior to me
18 coming on duty.

19 Q Okay. Now, do you remember anybody with LLOG --
20 and they spell their name L-L-O-G.

21 A Okay.

22 Q Do you remember anybody with LLOG at the dock at
23 any time before you left?

24 A We spoke of this earlier about the possibility of
25 doing a crew change. And that --

1 one that's supposed to be looking out for me wasn't able
2 to.

3 Q The captain?

4 A Yeah, even if there wasn't --

5 MR. SHEPPARD: Objection.

6 A (CONTINUED:) Yeah.

7 Q (BY MR. LEMOINE:) How does the D-ring -- the
8 D-ring is connected to the slings --

9 A Yes.

10 Q -- that are already pre-assembled on the top of
11 the Conex box.

12 A That is correct.

13 Q All right. So why was it in a blind spot?

14 A Well, that's a good question.

15 Q Every once in a while I do one. Not often,
16 though.

17 A Yeah. It's a good question.

18 I would like to know -- I would like to
19 know that, too. I would like to know why it was in a blind
20 spot.

21 Q But how was it in blind spot? Could it have
22 fallen off to the side of the Conex box?

23 A Well, there's -- it's a box, there's four sides
24 to it. And when you load it, there's an option, when you
25 lower the cable, to allow the stinger to come alongside

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1 Q Yeah.

2 A -- that's common when you do groceries to do crew
3 change. But honest to goodness, I don't recollect if we
4 had any LLOG people onboard or not.

5 Q Okay. So you have no evidence, personal
6 knowledge, whether they were dictating the way the cargo
7 was placed?

8 A No.

9 Q Okay.

10 A I don't think so.

11 Q And from your experience, typically people that
12 load the cargo are people that are employed by the dock?

13 A That's correct.

14 Q And they're supposed to be competent?

15 A Yes.

16 Q And do you have any criticism with the way they
17 did it, whoever they are?

18 A Yeah.

19 Q Can you just do it for me briefly?

20 A Well, it's obvious to me that the D-ring was in a
21 blind spot. And in a pinch point.

22 Q It was a blind spot to who?

23 A To everyone except for the camera that was
24 booking bird's-eye view straight down, which is important.
25 That guy needs to see me too. But most importantly, the

1 because this is a tall box.

2 Q Right.

3 A You see, it's as tall as the ceiling. The D-ring
4 obviously has to come below that --

5 Q Yes, and it was?

6 A -- and it can go in any position to drop down to
7 disconnect.

8 Now, generally, whenever you drop that --
9 it's a four-point sling, coming up to one stinger --

10 Q Right.

11 A -- off the -- off the --

12 Q To one D-ring, you mean?

13 A -- off the D-ring.

14 Well, it might be four slings to a D-ring,
15 or it could be four slings going to a single sling that
16 goes to a D-ring.

17 Q Yeah.

18 A There's different assemblies.

19 Anyway, when you let the cable down to
20 disconnect, you have four options of where to place it.

21 Q Oh. I see.

22 A Why would you want to place it in the pinch point
23 in the emergency walkway area, your area to -- your point
24 of escape? Why would you want to work in your area of
25 point of escape? Why wouldn't you want to work in the

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1 broad open, spacious area before or aft deck.

2 Q I see what you're saying. So whoever -- whoever
3 set that box down --

4 A Uh-huh.

5 Q -- the D-ring, of course, needs to be overlapping
6 one of the sides of the box --

7 A Yes.

8 Q -- so you can handle it.

9 A Yes.

10 Q And whoever did it, overlapped it in an area that
11 you consider to be a pinch point?

12 A Yes. And blind spot.

13 Q Okay.

14 A And more than likely because it wasn't a blind
15 spot for whoever was unloading it, being it was on the port
16 side of the vessel, which is the -- usually the side that
17 boats ports to, docks to. That's where you're going to
18 have a crane on the dock loading is on the port side.

19 Q Okay.

20 A So they probably did it out of convenience.

21 Q This is a stupid question, I know, but can you
22 take that D-ring -- I imagine the D-ring has got the cable,
23 can you take it and sling it to the other side?

24 A It depends.

25 Q Well, could you have done it on this job?

[Page 171]

1 you, right?

2 A No.

3 Q But are you hurting?

4 A Yes.

5 Q Okay. Your shoulder hurts?

6 A Yes.

7 Q How often?

8 A The last -- when it's cold. Man, oh man. The
9 first winter that it happened, my goodness. I told you
10 about that truck earlier that I bought. Nice truck. It's
11 relatively new in good shape. I come home from my first
12 hitch from Smith Maritime. When I get to Houston, I can't
13 open my door. This is five, six months after the incident.
14 I can't open my door. But prior to that, I could do
15 35 pull-ups. But now I can't open my door.

16 Q What about 2020, though? What can you not do in
17 2020, this year?

18 A This year?

19 Q Yeah. January or February. If you want to take
20 it back six more months, that's okay.

21 A Yeah. 2020, I have been improving. I've been
22 improving since after the treatment. It's been improving,
23 knowing exactly what was wrong in order to treat it, and
24 that was a big deal.

25 Q And what was that treatment, Mark?

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1 A At that time, prior to the injury, I was in
2 excellent shape. I could do 40 pull-ups or 35 pull-ups
3 without hesitation -- a hundred pushups. Excellent shape.
4 And probably not.

5 Q Okay. It's too heavy?

6 A Well, it's cumbersome.

7 Q Okay.

8 A You have four cables coming from four different
9 points. You know, you have to go over a corner, you have
10 to -- it wouldn't -- it wouldn't be easy.

11 Q Do you -- do you belong to a health club?

12 A No.

13 Q You look like you're in good shape.

14 A I'm in terrible shape in comparison to how I used
15 to be.

16 Q I guess if you just keep your weight down, to me,
17 you look good. I'm fat.

18 A Well, thank you very much.

19 Q No. So do you exercise?

20 A Yeah, I have since I was a teenager.

21 Q Yeah, I mean, because right now -- and they are
22 going to ask you some questions on your medical status, but
23 I may have to cut out in a little bit.

24 A Sure.

25 Q You're not taking any medication, and good for

[Page 172]

1 A Well --

2 Q I don't have the records.

3 A There was -- we were talking about surgery being
4 a possibility, but frankly I'm a scared of the knife.

5 Q Sure.

6 A I'm concerned that it could be made worse. I've
7 heard horror stories about all kinds of back surgeries that
8 they are ten times worse after the knife. And I'm no
9 stranger to pain.

10 Q I'm listening to you.

11 A Yes. So as I started to improve, I'm more
12 confident, but whenever I would push myself to try to get
13 even remotely close to what I used to do, it would govern
14 me. It would govern me. It would wake me up at night or
15 give me a quick pain, or I start -- just gnawing, a gnawing
16 pain for hours the next day or the same day.

17 Q Yeah.

18 A And that -- this year, not so much. Not so much.
19 I have been doing some work around the house. Roof work.
20 Not easy, by myself. And wake me up at night sometimes.
21 Bug me. Feel like a -- like a -- just an annoying pain.
22 But I don't do military press anymore, that's out of the
23 question. You know, I can hang now and bring my legs up, I
24 do hanging crunches, which is great.

25 Q That's really good.

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1 A That's a good exercise for your chest.
 2 Q I would like to get that on video.
 3 A (LAUGHING.)
 4 Q I'm going to let him -- because he's got all the
 5 medical, I don't. But it's been a pleasure to meet you,
 6 too.
 7 A Yeah, okay. Thank you.
 8 (TIME: 3:05 P.M.)
 9 (OFF THE RECORD CHATTER.)
 10 (WHEREUPON JOHN SHEPPARD RELIEVED DANIEL
 11 SHEPPARD.)
 12 E X A M I N A T I O N
 13 BY MR. MECHE:
 14 Q All right. Mr. Flora, I want to pick up where we
 15 left off. After you -- after this incident happened, did
 16 you stay on the vessel, the MAGGIE A, for the rest of that
 17 hitch?
 18 A Not -- I did not finish the hitch.
 19 Q Okay. Did you leave the same day, next day or...
 20 A About two weeks later.
 21 Q In that two weeks time did you continue with your
 22 regular watch?
 23 A Yes.
 24 Q And so -- and I think you testified earlier your
 25 recollection it was a 24, and 28/14?

[Page 174]

1 A Yeah.
 2 Q Okay. So you finished working for approximately
 3 two weeks. Were you able to do your job as a deckhand in
 4 that time?
 5 A Horribly. (LAUGHING.)
 6 Q Okay. Were you taking anything on the vessel
 7 like over-the-counter or something or other?
 8 A Aleve, ibuprofen.
 9 Q Okay. So you finish out your two weeks on the
 10 MAGGIE A, and then you go home. Do you see a medical
 11 provider when you get back to the beach?
 12 A I left early.
 13 Q Okay.
 14 A And yeah. Yeah. Went to Lafayette. I wanted to
 15 see a doctor. I was really concerned about the pain not
 16 subsiding, about the noise in my shoulder, about the -- no
 17 power to do my work. When I had to sweep -- and it wasn't
 18 easy going back from the 1600 master to sweep a deck on a
 19 crew boat. It wasn't easy --
 20 Q Yes, sir.
 21 A -- but I did it, and I did it every day,
 22 sometimes twice a day. And I did it with one arm for a
 23 couple of weeks.
 24 Q Okay.
 25 A With one arm. And try to put -- try sweep into a

[Page 175]

1 pan with one arm. It's not easy. Everything was twice as
 2 hard.
 3 Q Okay. Did you say you went to Lafayette to get
 4 treatment when you got back?
 5 A Yeah. The -- I guess the health -- the safety
 6 fellow in GOL [sic] took me to Lafayette.
 7 Q Is it possible that it was in Larose and not
 8 Lafayette? And I have a record, and I think you referenced
 9 it --
 10 A No. Maybe -- maybe it was in Houma. In Houma.
 11 Q You mentioned earlier a clinic, that we both came
 12 to the conclusion it was Complete Occupational Health
 13 Services.
 14 A Yeah. That is -- that's like a real basic
 15 generic type place. He took me to see a specialist
 16 afterward.
 17 Q Okay. All right. So let me back up a little bit
 18 just so I can get the timeline.
 19 The very first medical provider you see
 20 when you got off the boat would have been Complete
 21 Occupational in Larose?
 22 A Yes.
 23 Q Okay. And my understanding from the records is
 24 that you were treated and released to full duty?
 25 A Yes.

[Page 176]

1 Q Okay. And then, at some point, do I understand
 2 that you went and saw a specialist?
 3 A Yes.
 4 Q Okay. And that you believed that was in the
 5 Houma area?
 6 A I think so.
 7 Q Is that Dr. LaSalle at Gulf Coast Orthopedics?
 8 A Yeah, I believe so.
 9 Q Okay. All right. So do you recall, as you sit
 10 here today, roughly how many appointments you had with this
 11 specialist?
 12 A Not enough. (LAUGHING.)
 13 Q Okay. Do you recall what type of specialty he
 14 had?
 15 A Oh. Not exactly.
 16 Q Okay.
 17 A I'm not a doctor.
 18 Q All right.
 19 A He's supposed to be a specialist in that area,
 20 something to do with ligaments and bones, whatever that may
 21 be.
 22 Q Okay. What did Dr. LaSalle do for you?
 23 A He did a X-ray.
 24 Q Okay.
 25 A Yeah.

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1 Q What else?

2 A Yeah. He examined my movement, and asked me

3 about pain.

4 Q Okay. Anything else?

5 A Not that I recall.

6 Q Okay. And you don't recall how many appointments

7 you had with him?

8 A Maybe two. It was very difficult for me to make

9 these appointments because I live in Houston.

10 Q Sure.

11 A And I only pass by there when I'm coming and

12 going to work.

13 Q Okay. During this period of time, where you get

14 off the MAGGIE A, you're seen in Larose, Louisiana, and

15 then at the some point -- do you know if it's days or weeks

16 that go by before you see the specialist?

17 A I think it was weeks that went by. There was no

18 prescribed treatment at that time, which worried me,

19 concerned me, and I passed that along to GOL [sic], the HSC

20 man that took me there. I said can't we get somebody in

21 Houston, I can get some treatment? And he says you can do

22 whatever the hell you want to. And it -- the way he told

23 me, it felt threatening, like if I do this I'm going to

24 lose my job. Again, I'm not scared to lose a job, but I

25 really wanted to get that damn endorsement.

[Page 178]

1 Q Okay. Do you recall who told you that?

2 A The HSC man. Randy? I don't know. If I saw his

3 picture...

4 Q Is it your testimony that Gulf Logistics denied

5 you an opportunity to see anybody in Houston?

6 A They -- they -- they told me that the doctor I

7 need to see was there.

8 Q Okay.

9 A And if I wanted to go see somebody else, then

10 that's my business.

11 Q Okay. Did you see at any time after this

12 incident occurred, before you hired counsel, did you see a

13 single medical provider in Houston?

14 A No.

15 Q All right. Could you have?

16 A No.

17 Q Why not?

18 A Couldn't afford it.

19 Q Okay. Did you have -- didn't you have group

20 health coverage with the -- with the company?

21 A I don't recall.

22 Q And again, maybe I misunderstood you. I thought

23 earlier you testified in addition to your day rate with

24 Gulf Logistics that you had group health coverage?

25 A I don't know.

[Page 179]

1 Q Okay.

2 A But I also, if I had it, I don't know what's

3 covered and what's not.

4 Q Okay. And certainly the only way to find that

5 out would be to present to a medical provider, right?

6 A That's correct.

7 Q How about emergency room? Did you go to any

8 emergency rooms in Houston before you hired counsel?

9 A No.

10 Q All right. What is your understanding of how you

11 and Dr. LaSalle left each other, so to speak? Did you just

12 stop going to see him, or did he discharge you?

13 A Uh... I don't recall. I don't recall. Oh.

14 There wasn't anything being done. There wasn't any therapy

15 or -- or -- he didn't have an answer for me, what the

16 problem was.

17 Q Okay.

18 A And that bothered me.

19 Q Did you tell him that?

20 A Yes.

21 Q Did you ever communicate with the company, with

22 Gulf Logistics, that you were unhappy with either Complete

23 Occupational or Dr. LaSalle?

24 A Yes.

25 Q Did you ever do that in writing?

[Page 180]

1 A No.

2 Q Did you ever send an email or text and say, hey,

3 Randy, look, Dr. LaSalle, he's seen me a couple of times,

4 he can't answer my questions -- did you do anything like

5 that?

6 A It's possible.

7 Q Okay. Do you have copies of those?

8 A I do not.

9 Q I'll represent to you, sir, at least the

10 paperwork we have been provided shows that on August 29th

11 of 2017, Dr. LaSalle released you and cleared you for

12 duties with no restrictions. Does that surprise you at

13 all?

14 A No.

15 Q Okay. Did you feel like you had any restrictions

16 at that point that would make your work on a boat unsafe?

17 A Well, working on a boat is unsafe. It doesn't

18 matter if you've got two legs or one leg, it's unsafe.

19 It's a hostile dangerous environment, at best.

20 Q No, I understand that, sir. But that really

21 wasn't my question.

22 What I'm trying to understand is, after you

23 were released by Dr. LaSalle, did you personally consider

24 yourself to have any physical problems that you felt would

25 render you unsafe to work on a boat?

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1 A I didn't know the extent of my physical problems.
2 I was aware of the pain that I was experiencing. I didn't
3 know exactly why I was having this pain. I didn't get the
4 answers I needed from LaSalle.

5 Q Okay.

6 A Nor did I get that from the other place that I
7 initially went to.

8 Q Okay. Even though you didn't know what was wrong
9 with you, you had an awareness of whatever limitations your
10 body had at that time, right?

11 A Yes.

12 Q I can do this, or I can't do that. You were
13 aware of that, right?

14 A Yes.

15 Q Did you have any concerns with those limitations
16 that your work aboard a boat would be unsafe?

17 A It was unsafe. It was.

18 Q That's not my question.

19 A Yes. Oh, absolutely.

20 Q Okay. You had concerns?

21 A Absolutely, yes, prior to seeing LaSalle, after
22 seeing the initial...

23 Q I guess, what I'm trying to understand,
24 Mr. Flora, is you went back to work on either two or three
25 hitches after all of this occurred.

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1 the mate or the captain.

2 A Yes.

3 Q And you know a guy gets on the boat and you know
4 he's in pain, he's got a shoulder problem.

5 A Uh-huh.

6 Q What do you do as captain? Are you going to let
7 him stay on the boat, or are you going to ask him to leave?

8 A If he's there --

9 MR. SHEPPARD: Objection, vague.

10 A (CONTINUED:) -- if he's capable of doing his
11 work, and endure whatever pain he has -- everybody has that
12 for the most part.

13 Q (BY MR. MECHE:) Okay. So your kind of litmus
14 test is if he would be capable of doing his job?

15 A Yes.

16 Q When you boarded the MAGGIE A for the subsequent
17 hitches after your incident and boarded the ALISSA as
18 captain, did you feel like you were capable of doing your
19 job safely?

20 A Yes.

21 Q Okay.

22 A With pain.

23 Q All right. When Dr. LaSalle discharged you at
24 full duty with no restriction --

25 A Uh-huh.

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1 A Yes.

2 Q Tell the court and jury whether you went back to
3 work knowing that you were probably going to be in an
4 unsafe situation because of your limitations or not.

5 A It's -- I really don't have a yes or no answer
6 for that. Depending on the level of pain I could
7 withstand, depending on the situation at hand. If I had to
8 lift somebody up from a burning tank, I would give it my
9 all. Damn the pain. You know, depending on the situation.
10 Would it hinder that, me being able to do that? Yes.
11 Would it help? No, it would not help to have that much
12 pain and being in that situation or have to lift myself out
13 of a tank.

14 Q I'm just trying to find out if you feel like it
15 would be unsafe?

16 A Oh.

17 MR. SHEPPARD: Objection, asked and
18 answered.

19 A (CONTINUED:) That's relative. You know, it
20 depends on the situation. I definitely was not as safe as
21 I was prior.

22 Q (BY MR. MECHE:) Well, let me ask it you this
23 way. Tomorrow --

24 A Uh-huh.

25 Q -- you get on Latham Smith's boat, and you are

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1 Q -- in August of 2017, when was the next doctor
2 that you saw?

3 A Oh. Months later.

4 Q Okay. Was it -- did it coincide with your
5 retention of legal counsel?

6 A Yes.

7 Q Okay. So the next doctors you saw after LaSalle
8 were the doctors that were referred -- that you were
9 referred to by your counsel?

10 A Yes. I wanted an MRI.

11 Q Do you recall what month that was?

12 A I'm sorry, I don't. I don't.

13 Q All right. Do you recall the name of the doctor
14 that you were treating with in Houston?

15 A No. I went to -- I wanted to go to an MRI
16 clinic.

17 Q Okay.

18 A Start to get some answers, real answers of what
19 my problem is.

20 Q Did you get an MRI?

21 A Two.

22 Q Okay. Do you know what doctor interpreted that
23 MRI?

24 A No.

25 Q Did you ever have an appointment where you went

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1 to a doctor, and he or she held up the MRI, and said okay,
2 Mark, let me tell you, here's what we see?

3 A Yes. I don't recall that.

4 Q Okay. Can you tell us what street in Houston,
5 what building?

6 A It's -- I went to one, the first MRI was close to
7 -- excuse me -- the Astrodome area.

8 Q Okay.

9 A South Main and 610 area.

10 Q Okay.

11 A And the second one was on the north side, I think
12 off of, oh, I don't know, Jensen Drive, off 45, somewhere
13 up there.

14 Q All right. In all of the treatment that you had,
15 Mr. Flora, did any doctor tell you, Mr. Flora, you need
16 surgery?

17 A It was suggested. It was suggested, and talked
18 about quite a bit. And I took the information that they
19 had in conjunction with the pain and treatment I was
20 getting, and also did my own research. And I was against
21 it. I was against it. I was scared of it. I was
22 terrified that it would be worse, you know. So I was
23 against it.

24 Q All right. Let me make sure I understand, sir.
25 What I want to know specifically is if a

[Page 187]

1 A Yeah.

2 Q Across the street.

3 A West, unh-uh.

4 Q How many MRIs have you had since this incident?

5 A I can't recall if it was two or three.

6 Q Is it possible that it was three?

7 A It's possible that it was three.

8 Q Do you have any idea why you would have needed
9 that many MRIs? Were they all to the left shoulder?

10 A Yes.

11 Q Do you have an understanding, did anybody explain
12 to you, well, Mr. Flora, we -- you know, the first picture
13 was fuzzy, we need another one? Or was there some other
14 reason?

15 A Well, to see a progression --

16 Q Okay.

17 A -- I mean, it was a fracture in the shoulder.
18 There was a torn ligament, you know, to see a progression.
19 Maybe look -- isolate a specific area and see how things
20 were healing afterwards. See why there's still a problem
21 in a certain area.

22 Q Okay. One of the healthcare providers diagnosed
23 you with a fracture?

24 A Yes.

25 Q Okay.

[Page 186]

1 doctor told you, Mr. Flora, you need surgery versus
2 somebody talking about the possibility of surgery?

3 A It was strongly suggested that we get some bone
4 shaved off here and there.

5 Q Okay. Which doctor suggested you needed surgery?

6 A The one on the north side.

7 Q Okay. So when we get those records, we're going
8 to find a surgical recommendation?

9 A I wouldn't be surprised if you saw that.

10 Q Okay. And was it your decision not to undergo
11 surgery if it was recommended?

12 A Yes.

13 Q Did any medical doctor tell you that you had
14 something either broken or torn?

15 A Yes.

16 Q Okay. And who told you that?

17 A I don't remember the names.

18 Q Is it the same doctor on the north side?

19 A Him, and then there was another -- you know there
20 was another MRI done. Was it three MRIs? There's another
21 doctor I saw over here, off of 59 and Kirby area, not far
22 from here.

23 Q Yeah. Like right by this office?

24 A No. Other side of 59.

25 Q Okay.

[Page 188]

1 A Hairline fracture.

2 Q Okay. Hairline fracture.

3 Which doctor --

4 A I'm sorry. I'm terrible with names.

5 Q And listen, I am too. I understand.

6 Can you at least tell me which clinic they
7 were at, what street they were on?

8 A I went to four different locations all together.
9 And I think it was the one on the north side.

10 Q Okay. When you say four locations, that's four
11 separate medical providers that you saw after retaining
12 counsel and treating here in Houston?

13 A Yes.

14 Q Okay.

15 A In order to get the MRI at a certain date, we
16 have to go to a different place and then for the
17 rehabilitation, I went to another place closer to my house
18 that was actually convenient to go to.

19 Q Okay. The medical care that you got in
20 Louisiana, did Gulf Logistics pay for that?

21 A I guess so.

22 Q Have you -- do you have bills that have been sent
23 to you by those providers?

24 A No, I do not.

25 Q Okay. What about all of the medical bills that

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1 have been generated since you started your treatment in
2 Houston? Do you have those?

3 A No, I do not.

4 Q Okay. Did you ever present those bills to Gulf
5 Logistics?

6 A No, I did not.

7 Q By that time you already had counsel, right?

8 A Yeah. I was no longer working there, and it was
9 made pretty clear to me that they're done with that -- with
10 their part of it.

11 Q And who made that clear to you?

12 A The HSC Man.

13 Q Okay.

14 A Because he was there every time I went to the
15 doctor in Louisiana, and after several suggestions that a
16 request that I have a doctor that I could actually go see
17 that is not 250 miles from my house, that I could get
18 rehabilitation, and he denied, denied, denied.

19 Q Okay. Did you ever get anything in writing on
20 that?

21 A No.

22 Q Okay. Do you know whether Gulf Logistics has
23 ever been presented any medical bill of yours to be paid?

24 A I don't know.

25 I had an injury before. I mentioned I had

1 A I don't recall --

2 Q Okay.

3 A -- if it was 2018.

4 Q Where were you out of the country, Mr. Flora?

5 A Columbia, Panama, Ecuador.

6 Q This is all with Smith Maritime?

7 A Yes.

8 Q All right.

9 A Numerous Caribbean Islands. It was a good year.

10 MR. LEMOINE: You're talking about 2019 wa
11 a good year?

12 THE DEPONENT: Yeah. Plenty of work.

13 Q (BY MR. MECHE:) Your hitch on the vessel ALISSA
14 as captain, were you able to do the job as a captain on
15 that 28-day hitch?

16 A I think I worked two hitches, and I finished my
17 hitches except for the last -- I don't think I finished my
18 hitch, because of the flooding that hit Houston.

19 Q Okay.

20 A I tried to get home before it, and I was caught
21 in Beaumont for three days. Beaumont turned into an
22 island. It was awful.

23 Q I remember it.

24 A Oh, man!

25 Q Just so -- whether it's one hitch or two hitch

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1 a hernia offshore with Seabulk, and their office was in
2 Lafayette. I live in Houston. They got me the best doctor
3 here in Houston that did an excellent job, follow-through,
4 I had absolutely no complaints, never saw a bill. They
5 paid my child support the months I was off. I didn't have
6 to do anything in writing. And that is something that is
7 supposed to be a given, doing -- doing this dangerous work.
8 The people that you work with are supposed to have your
9 back. And they turned their back on me. And I didn't want
10 to deal with them after they did that.

11 Q Understood.

12 MR. MECHE: Objection, non-responsive.

13 Q (CONTINUED, BY MR. MECHE:) But I understand what
14 you're saying, sir.

15 Do you have -- well, let me ask it this
16 way. Have you treated with anybody, whether it's Houston
17 doctors or anyone else, in the year 2019?

18 A 2019? I don't think I did. Did I do rehab in
19 2019? I know I spent the first part of year out of the
20 country.

21 Q Where were --

22 A Oh, yeah 2000 -- last year. No, 2018.

23 Q Okay. So, again, we're going to get all the
24 records, but your best recollection is you did not treat in
25 2019 for the injuries that have been sued upon?

1 [sic] that you pulled with Gulf Logistics as captain, you
2 were capable of doing that job?

3 A Yes.

4 Q And you're still capable of doing that job?

5 A Yes.

6 Q What about, do you recall how many hitches you
7 did as a deckhand, still in the deckhand position, after
8 your incident before you shifted to the ALISSA?

9 A I might have done one complete hitch, and then
10 one partial.

11 Q Do you recall, was Captain Lester James on the
12 vessel for the subsequent hitches?

13 A Yeah. It's a three-man rotation, so out of
14 28 days Lester would be on for at least two of those weeks,
15 if not more.

16 Q Do you have any outstanding appointments that are
17 lined up right now, that, you know, I've got this on the
18 list to go see here, to go see there?

19 A Regarding what?

20 Q To the injuries that this lawsuit is based on?

21 A Oh, no. Just this -- this stuff.

22 MR. MECHE: All right. Mr. Flora, I'm
23 going to pass the witness to Ms. Fordyce for her to ask her
24 questions, and I may have a few later on, but thank you
25 very much for your time.

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1 THE DEPONENT: You're welcome.

2 MR. SHEPPARD: Just five, okay?

3 VIDEOGRAPHER: Off the record, 3:27 p.m.
4 (OFF THE RECORD.)

5 VIDEOGRAPHER: Back on the record at
6 3:39 p.m.

7 E X A M I N A T I O N

8 BY MS. FORDYCE:

9 Q Captain Flora, you understand, even though we
10 took a break, you're still under oath?

11 A Yes, ma'am.

12 Q And we've met briefly earlier today. My name is
13 Melanie Fordyce, and I represent Grand Isle Shipyard.

14 A Okay.

15 Q Do you understand who Grand Isle Shipyard is?

16 A Yes.

17 Q What is your understanding of what we do?

18 A Oh. Load and unload cargo, store cargo.

19 Q And do you -- you also go by GIS, or whatever?

20 A Yes. I guess you have other facilities besides
21 the one that I worked at when I was with GOL [sic]. I'm
22 assuming that there's others.

23 Q There are. And that is one of the questions I
24 was going to ask you.

25 A Okay.

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1 Grand Isle that loaded that cargo on the ship?

2 A Pretty certain.

3 Q And you're certain because you said you saw a
4 sign at the dock in Fourchon?

5 A Well, as I said earlier, that was the primary
6 dock that we would load out of for going offshore. That
7 was the primary one.

8 Q How far away are the two ports -- or the -- was
9 Fourchon from?

10 A I'm not sure.

11 Q Do you know about how long it took to get out
12 there?

13 A I don't remember the exact time. It's not close
14 though. Maybe 50 miles.

15 Q And so, was this ship loaded the day before your
16 accident?

17 A I'm not sure.

18 Q When -- so you're not sure. Were you in the
19 dock? Were you in Fourchon?

20 A Well, if I was on duty at 7 o'clock, which I was
21 on when I was injured, that means that I more than likely
22 start my watch at midnight. So you -- I'm sorry. What was
23 the question again?

24 Q Sure.

25 A I lost my train of thought.

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1 Q How did you know it was a Grand Isle or a GIS
2 facility?

3 A There's a sign there. And I worked out of
4 Fourchon for many years.

5 Q Is there anybody else working out of Fourchon?

6 A Oh, goodness, yes.

7 Q But you're certain that when you were working on
8 the MAGGIE A that you were going in and out of the
9 Grand Isle dock, or the Grand Isle facility?

10 A Very often.

11 Q Was it always at Grand Isle?

12 A Primarily.

13 Q On the loading, I guess, that occurred right
14 before this incident, you're certain that it was Grand Isle
15 facility?

16 A Can you repeat that, please?

17 Q Sure. My understanding of the -- what -- how it
18 occurred on that day, you were going back and forth from --
19 from Fourchon to the really -- to the drilling ship,
20 correct?

21 A Yes, yes, yes.

22 Q And so you were injured when you were offloading
23 those -- that cargo.

24 A That's correct.

25 Q Do you know -- is it your testimony that it was

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1 Q What I'm just trying to figure out, so you would
2 have started your watch at midnight.

3 A More than likely, yes.

4 Q And that would have been midnight, like 12 o' --
5 12:00 o'clock, 12:01 a.m. on May 25th, 2017?

6 A Should be from midnight to noon, yes, ma'am.

7 Q So it would -- and the next, you would have
8 started -- when would you have gotten off duty on May 24th?

9 A It should have been around noon.

10 Q And sometime -- it's your recollection that
11 between noon and when you went back on duty at midnight is
12 when the cargo was loaded up to the boat?

13 A It's possible, I don't remember.

14 Q You just don't remember?

15 A I just don't remember.

16 Q Could it have been loaded while you were still on
17 duty from the earlier day?

18 A It's possible, but I don't remember loading that
19 cargo.

20 Q So you don't -- you don't have any recollection
21 of loading cargo?

22 A Well, I'm asleep for a period of this time, so I
23 can't -- I'm not going to remember what happens when I'm
24 asleep.

25 Q And who is responsible for the placement of the

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1 cargo on the ship?

2 A The people doing the cargo operations.

3 Q Do you know -- did they use cranes to put
4 those...

5 A Yes.

6 Q Put the cargo on there?

7 A Yes.

8 Q Who tells them where the cargo needs to go?

9 A Usually the captain is ultimately in charge of
10 that. It depends on if -- when you're loading the vessel,
11 you've got to have -- usually our own riggers would do
12 that. Very seldom would a rigger from the dock help on the
13 vessel.

14 Q So it would have been the riggers that were
15 assigned to the MAGGIE A?

16 A Yes.

17 Q And that -- if you had been on duty, that would
18 have been part of your responsibilities?

19 A Yes, yes, as a team.

20 Q As a team?

21 A That's right.

22 Q And there was -- it was you and Bruce and some
23 others?

24 A Another deckhand or two, and captain.

25 Q You testified earlier one of the complaints you

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1 likely, yes.

2 Q And so once they take that off the hook, are they
3 responsible for placing it either to the side --

4 A No.

5 Q -- or how does...

6 A That's -- that's -- the crane operator, however
7 he would position the headache ball, would pull the stinger
8 or pull the sling, rather, in the position it would be in.

9 Q Okay. So it wouldn't be -- they would position
10 it to where he wanted the D-ring, and then a rigger would
11 come and unhook it?

12 A That's correct.

13 Q But the crane operator, it's your testimony, that
14 he's the one choosing where it is?

15 A Well, he's the one operating the crane that moves
16 the stinger that moves the slings, yes.

17 Q And is there any way from, when you leave the
18 dock to where you get to the ship, where you're offloading
19 the supplies, do these strings move at all, or the D-rings
20 move from side to side, or...

21 A Naw -- it depends, you know. It depends on what
22 shape the basket is or how rough the seas are, you know.
23 For a six-by-six box, no, unless you flip a vessel
24 upside-down, it's not going to...

25 Q It's going to stay on the same side?

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1 had was that the D-ring and the pre-strung -- it fell on
2 the wrong side of the container.

3 A Yes, it was positioned on the wrong side.

4 Q Now, if we're -- once the cargo gets on the boat,
5 and, I guess, it's -- the crane is the same way as it --
6 when it's getting off, correct?

7 A Well, it -- that's not correct.

8 Q Okay.

9 A Your crane position when you're loading the
10 vessel on the dock isn't going to necessarily be the same
11 as when you're unloading offshore.

12 Q But the same mechanism? Is it still the strings
13 up to a D-ring?

14 A Yes.

15 Q That is hooked to the headache ball and the
16 stringer -- or the stinger?

17 A Yes, yes. That -- yeah.

18 Q And once -- and who unhooks the D-ring from the
19 stinger?

20 A Offshore or --

21 Q Offshore -- at the dock.

22 A At the dock, the riggers would.

23 Q And that would be the riggers that were on the
24 MAGGIE A.

25 A If it was done on the vessel, but more than

[Page 200]

1 A It's going to -- yes.

2 Q And you said you don't remember how many cargo
3 boxes were on there?

4 A No. It was several. But exact number, no.

5 Q Do you know -- you said the cargo was loaded in a
6 specific way. Do you have any idea how that was
7 determined, which boxes go where?

8 A I'm sorry, I don't understand your question.

9 Q Sure. Like, do you know if there is -- like, do
10 grocery boxes have to go in the same place every time?

11 A It varies. It varies.

12 Q And so with that -- that wasn't part of your
13 responsibility, correct?

14 A For that load out, I don't think it was. I don't
15 remember loading that myself, or being a part of that,
16 rather.

17 Q So you don't remember being a part of the
18 loading, whatsoever, correct?

19 A The loading of the boat, no. I don't remember
20 that.

21 Q Can cargo be placed on the boat in any other way
22 besides a crane?

23 A Sure.

24 Q What are some of those other ways?

25 A A hand-carriable box.

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COURT REPORTER: What?

THE DEPONENT: A hand-carriable box.

A (CONTINUED:) Paperwork. Loose paper.

Q (BY MS. FORDYCE:) But the type of box we're talking about here would always be moved by a crane?

A Yes.

Q Did you take any photographs of your injuries of your bruised shoulder at all?

A I'm sure I did. I'm sure I did.

Q Do you still have those?

A No.

Q Would you have sent them to your attorneys?

A It's possible.

Q Now -- and we talked about where the D-ring had fallen that -- within the crane. Is there any type of -- do you know any written policy or procedure that determines where the best place is for the D-ring?

A I don't recall. It's going to vary from lift to lift, what you can do and what you can't do, what's preferred and what's not. It should be without being in a pinch point. It should be in a -- being able to work in an open area that I could find, or a restricted area.

Q And Mr. Lemoine earlier asked you about the pattern and practice of neglecting safety issues that you allege all defendants?

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A I would have to look at the documents. I really -- I don't have the dates in my mind.

Q And right now you don't have any appointments scheduled?

A No, ma'am.

Q Okay.

A No. Hopefully, it won't progress in a negative direction. You know, that's my hope. And I'm still taking it easy on it. I'm not near what I was before. But as far as getting professional help at this point, it's not necessary to date. I hope that it's not necessary tomorrow. That's -- that's really all I've got to say about it.

MS. FORDYCE: I'll go ahead and pass the witness.

(TIME: 3:53 P.M.)

E X A M I N A T I O N

BY MR. MECHE:

Q Mr. Flora, how many -- how many cranes are on this drillship, the WEST NEPTUNE?

A Four visible ones.

Q Okay. Can you describe for the court and jury which particular crane was involved in the lift that you were injured?

A It was probably the starboard forward crane.

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A Right.

Q Do you have any evidence regarding Grand Isle Shipyard?

A Yes.

Q And what is that?

A Well, unfortunately, at the time there is a crane operator -- we mentioned earlier about nicknames. His nickname was Bone Crusher. Loaded many times at night without proper lighting. I mean black on the back of the deck. There were lights on the crane that could shine down on the deck, but were intentionally turned off because then the crane operator complained he couldn't see, which he needs to be able to see. And so are we. We're not supposed on a back deck manhandling thousands of pounds of steel in the black of night. I thought that was really, really, really unsafe, which was done consistently.

Q But you don't know if that's what occurred the night before your accident, right?

A I would say it would be very likely.

Q But you testified earlier that you had no recollection on how these boxes got on this boat.

A I don't remember doing the load-out.

Q And I think you were asked earlier, you haven't seen a doctor since early 2019, or do you -- for your shoulder --

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Q Okay. When you say probably, what is your level of certainty on that answer?

A Well, I'm just trying --

Q One to a hundred percent?

A I'm trying to recall the position of their bow. You know, I'm pretty certain we were lined up with their bow along -- parallel, bow to bow. And if we were on our port side, that would put us on their starboard side. So pretty -- pretty confident on that.

MR. MECHE: Fair enough, sir.

We have no more questions. We'll reserve the rest of ours until the time of trial.

VIDEOGRAPHER: Off The record, 3:54 p.m.

*** END ***

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CHANGES AND SIGNATURE
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[Page 207]

In the United States District Court
for the Southern District of Texas
Houston Division
Mark Flora,
Plaintiff,
v. Civil Action No: 4:19-cv-02328
Transocean Drilling (USA), Inc.,
et al,
Defendants.

REPORTER'S CERTIFICATE
DEPOSITION OF MARK FLORA
FEBRUARY 19, 2020

I, Sandi LoCascio, Certified Shorthand
Reporter in and for the State of Texas, do hereby
certify that the facts as stated by me in the caption
hereto are true; that the above and foregoing answers
of the witness, Mark Flora, to the interrogatories as
indicated were made to me by the said witness after
being first duly sworn/affirmed to testify to the
truth, and same were reduced to printing under my
direction; that the above and foregoing deposition as
set forth in printing is a full, true and correct
transcript of the proceedings had at the time of taking
said deposition.

I further certify that I am neither attorney
nor counsel for, nor related to or employed by any of
the parties to the action in which this deposition is

[Page 206]

I, Mark Flora, have read the foregoing
deposition and hereby affix my signature that same is
true and correct, except as noted above.

Mark Flora
THE STATE OF _____
COUNTY OF _____

Before me, _____, on this
day personally appeared, Mark Flora, known to me (or
proved to me under oath or through
_____) (description of identity
card or other document) to be the person whose name is
subscribed to the foregoing instrument and acknowledged
to me that they executed the same for the purposes and
consideration therein expressed.

Given under my hand and seal of office the
_____ day of _____, 2020.

NOTARY PUBLIC IN AND FOR
THE STATE OF _____

[Page 208]

taken, and further that I am not a relative or employee
of any attorney or counsel employed by the parties
hereto, or financially interested in the action;

That the amount of time used by each party at
the deposition is as follows:

Mr. Daniel E. Sheppard - TIME: 0:00

Mr. John D. Sheppard - TIME: 0:00

Ms. Melanie G. Fordyce - TIME: 0:14

Mr. Alan J. Meche - TIME: 4:02

Mr. Michael G. Lemoine - TIME: 0:16

GIVEN under my hand and seal of office on
this the 4th day of March 2020.

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